

# EXHIBIT 1

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

FERNANDO & ENA PINILLOS D/B/A RED  
HORSE SCREEN PRINTING,

CASE NO. 25-CP-10-\_\_\_\_\_

Plaintiff,

v.

**SUMMONS**

ACCREDITED SURETY AND  
CASUALTY COMPANY, INC.,

**(Jury Trial Demanded)**

Defendant.

\_\_\_\_\_/

**TO THE DEFENDANTS ABOVE NAMED:**

YOU ARE HEREBY SUMMONED AND REQUIRED to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your Answer to said Complaint on the below subscribed attorney at her office at 706 Orleans Road, Suite 101, Charleston, SC 29407 within thirty (30) days after the service hereof exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, judgment by default will be entered against you and the Plaintiff in this action will apply to the Court for the relief demanded in this action.

s/ Laura Locklair

Laura Locklair, Esq. (SCB# 77679)  
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ATTORNEYS FOR PLAINTIFFS

Dated: February 19, 2025

STATE OF SOUTH CAROLINA  
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS  
NINTH JUDICIAL CIRCUIT

FERNANDO & ENA PINILLOS D/B/A RED  
HORSE SCREEN PRINTING,

CASE NO. 25-CP-10-\_\_\_\_\_

Plaintiff,

v.

**COMPLAINT**

ACCREDITED SURETY AND  
CASUALTY COMPANY, INC.,

**(Jury Trial Demanded)**

Defendant.

\_\_\_\_\_/

**COMES NOW**, Fernando and Ena Pinillos d/b/a Red Horse Screen Printing (“Red Horse”) by and through their undersigned counsel, and sues the Defendant named herein, and alleges as follows:

**JURISDICTION & VENUE**

1. This is partially an action for declaratory relief pursuant to the S.C. Code Ann. § § 15-53-10 et. seq.

2. In accordance with S.C. Code Ann. § 15-53-80, all of the parties herein are proper parties to this action in that each has or claims an interest that would be affected by the requested declaration.

3. Venue is appropriate in Charleston County, South Carolina, because at all times relevant hereto Red Horse operated in Charleston County, South Carolina and the incidents at issue are alleged to have occurred in Charleston County, South Carolina.

4. Pursuant to SC Code § 38-61-10 (2023), because the “Policy” (as that term is defined herein”) is a contract of insurance on “property, lives or interests” in South Carolina, it is “considered to be made in the State [of South Carolina]...and [is]

subject to the laws of [South Carolina].”

### **PARTIES**

5. Red Horse Screen Printing, Inc. is a corporation organized and authorized to do business in the State of South Carolina..

6. Upon information and belief, Defendant Accredited Surety and Casualty Company, Inc. (“Accredited” or “Insurer”) is an insurance company and/or corporation organized or existing under the laws of the State of Florida. Upon information and belief, at all times relevant herein, Insurer was authorized to and was doing business in Charleston County and the State of South Carolina.

7. This Court has jurisdiction over the subject matter of this action and the parties to this action.

### **Relationship of the Parties**

8. Red Horse is a family owned and operated company based in Charleston County, South Carolina, that designs, prints and/or embroiders garments and promotional items.

9. Red Horse purchased from Insurer an “Attune Mainstreet Businessowners’ Policy” effective from July 28, 2023 to July 28, 2024 under policy number 1ABPSC05127380102 (the “Policy”). A copy of the Policy is attached as **Exhibit 1**.

10. The “Named Insured” on the Policy is “Pinillos, Fernando & Ena DBA Red Horse Screen Printing”.

11. Red Horse timely paid its premiums for the Policy.

### **Underlying Lawsuit**

12. On August 7, 2023, Southern Marsh Collection, LLC filed a citation against



Red Horse Screen Printing, Inc. d/b/a Southern Strut in the 19<sup>th</sup> Judicial District Court in the Parish of East Baton Rouge in the State of Louisiana under case number C-735495 (the “Underlying Lawsuit”). A copy of the citation in the Underlying Lawsuit is attached as **Exhibit 2**.

13. Among other things the citation in the Underlying Lawsuit alleged that Red Horse “market[ed] and possibl[y] sol[d] and ship[ped] infringing products” and that Red Horse was engaged in “marketing, distributing, and selling products” and advertising its products “on an interactive website located at [www.southernstrutbrand.com](http://www.southernstrutbrand.com)”. See **Exhibit 2** at ¶¶ 4, 14, 16.

14. The citation in the Underlying Lawsuit includes claims for trademark infringement, false designation of origin, trademark dilution, unfair trade practices, and injunctive relief, including allegations that Red Horse’s actions will damage the reputation through libel and/or slander and “reflect adversely upon Southern Marsh.” *Id.* at ¶ 35.

15. Likewise, the citation in the Underlying Lawsuit contends that Red Horse made “false or misleading facts in connection with the sale of [Southern Marsh Collection, LLC’s] products or services.” *Id.* at ¶ 56.

16. Subsequently, a First Amended Complaint(the “FAC”) was filed in the Underlying Lawsuit on October 10, 2023, a copy of which is attached as **Exhibit 3**.

17. Among other things, the FC alleges that Red Horse “advertises on its website” and “markets and advertises its products to consumers” which Southern Marsh Collection, LLC alleges has damaged it. See **Exhibit 3** at ¶¶ 25, 26 and prayer.

18. The FAC alleges that such advertising by Red Horse has caused harm to Southern Marsh Collection, LLC, including its reputation, by Red Horse’s allegedly

“unfair methods of competition and unfair or deceptive acts or practices.” Id. at ¶ 59.

19. The FAC alleges that Southern Marsh Collection, LLC sustained “actual damages” and attorney’s fees because of Red Horse’s alleged “false or misleading representation of fact in connection with the sale of [Red Horse’s] products or services” and that Red Horse has allegedly “otherwise engag[ed] in competition unfairly.” Id. at ¶ 65.

20. In sum, the pleadings in the Underlying Lawsuit allege claims against Red Horse which entitled it to a defense under the Policy.

21. Red Horse timely tendered its defense and indemnity in the Underlying Lawsuit to the Insurer by reporting the claim (the “Claim”)

22. Insurer, by and through its third-party administrator, North American Risk Services (“NARS”), confirmed receipt of the Claim by September 6, 2023.

23. When neither NARS nor Insurer timely accepted or denied the Claim and a duty to defend the Insured in the Underlying Lawsuit, Red Horse followed up.

24. Insurer did not ensure a timely coverage decision was provided to its insured, Red Horse, with respect to the Claim and the Underlying Lawsuit.

25. In so doing, the Insurer denied its duty to defend.

26. As a result, Red Horse was forced to retain and pay for its own defense in the Underlying Lawsuit through counsel Dennison LaRue at Haynsworth Sinkler Boyd P.A. and local counsel at Gold Weems (together, “Defense Counsel”), which fees and costs exceed \$40,000.

27. Well after Red Horse was forced to retain and pay for its own Defense Counsel in the Underlying Lawsuit, Insurer purported to belatedly provide counsel to Red Horse, upon information and belief, Adam R. Bialk of Wilson Elser Moskowitz

Edelman & Dicker, LLP.

28. Following conclusion of the Underlying Lawsuit by Defense Counsel retained and paid for by Red Horse, Red Horse sought its out-of-pocket defense fees and costs from Insurer, which Insurer failed to reimburse.

29. As a result, Red Horse was forced to retain undersigned counsel.

30. In response to communications from undersigned counsel, Insurer again denied any obligations owed to Red Horse under the Policy with respect to the Underlying Action.

### **COUNT I-DECLARATORY RELIEF**

31. Red Horse re-alleges and incorporates the allegations contained in the preceding paragraphs, *supra*, as if such allegations had been fully set forth herein.

32. Red Horse is in doubt as to its rights, duties, and obligations owed to it pursuant to the Policy and the applicability of the Policy to the Underlying Lawsuit, including but not limited to, the defense and indemnity obligations due and owing to Red Horse as an insured. Thus, Red Horse is in need of and entitled to a judicial declaration of its rights regarding the same.

33. More specifically, Red Horse believes coverage is available under the Policy because the damages claimed against Red Horse in the Underlying Lawsuit:

- a. constitute “personal and advertising injury”
- b. are not unambiguously excluded by the Policy
- c. were purportedly the result of alleged “personal and advertising injury” which occurred in the “coverage territory”
- d. were purportedly the result of alleged “personal and advertising injury” which occurred during the policy period

- e. concern the use of “another’s advertising idea in your advertisement”
- f. concern allegations of “infringement of another’s copyright, trade dress or slogan in [Red Horse’s] advertisement”
- g. arise from alleged false representations or slanders the goods or products of Southern Marsh Collection, LLC;
- h. are covered under the Policy; and
- i. triggered a duty under the Policy to defend Red Horse..

34. Red Horse has complied with all conditions precedent to the filing of this lawsuit, and notwithstanding the same, Insurer denied the claims in question to Red Horse. Alternatively, to the extent that Red Horse has failed to comply with any conditions precedent, the failure to comply with the same did not prejudice and/or is immaterial as an immaterial breach of the subject contracts of insurance as such claims were or would have been denied by Insurer. Alternatively, Insurer waived any such conditions and/or is estopped from asserting any defenses related to conditions precedent. More specifically, Red Horse has plainly given notice of all claims which are the subject of this lawsuit to Insurer and/or its designated agents.

35. Red Horse has been required to retain the undersigned and is obligated to pay them a reasonable fee for their services.

36. Red Horse is an insured under the Policy and is entitled to the recovery of its costs and attorney’s fees in the present declaratory judgment action in the manner set forth and as provided by Gordon Gallup Realtors v. Cincinnati Ins. Co., 274 S.C. 468, 265 S.E.2d 38 (1980) and Hegler v. Gulf Ins. Co., 270 S.C. 548, 550 243 S.E.2d 443,444 (1978).

37. All parties having any interest in the declarations sought and all other persons having interest therein or adversely affected are joined in this action.

**WHEREFORE**, Red Horse respectfully requests that this Honorable Court declare the rights of the parties as follows:

- a. That this Court has jurisdiction over the respective parties;
- b. That this Court has jurisdiction over the subject matter;
- c. That Insurer owed or owes a duty to defend Red Horse as an insured under the Policy with respect to the Underlying Lawsuit;
- d. That the Policy was in full force and effect at all times relevant to the claims asserted by against Red Horse in the Underlying Lawsuit;
- e. That any and/or all of the damages and/or claims referenced in the Underlying Lawsuit against Red Horse represent covered losses under the Policy;
- f. That no unambiguous exclusions or other limitations of coverage contained in the Policy are applicable to the claims against Red Horse in the Lawsuit;
- g. That Red Horse qualifies as an insured under the Policy;
- h. That Red Horse is entitled to damages in the amount of its defense fees and costs incurred in the defense of the Underlying Lawsuit including those of Defense Counsel;
- i. Red Horse was entitled to select its defense counsel in the Underlying Lawsuit;
- j. Insurer waived its right to control the defense in the Underlying Lawsuit;
- k. Awarding Red Horse pre-judgment interest;
- l. Awarding Red Horse post-judgment interest;
- m. Awarding Red Horse its fees and costs in this declaratory judgment action;
- n. Such other and further relief as this Court deems just and proper.

### **COUNT II-BREACH OF CONTRACT**

38. Red Horse re-alleges all common allegations in the preceding paragraphs *supra*, as if fully set forth herein.

39. Red Horse demanded that Insurer defend and indemnify it for the claims that are the subject of the Underlying Lawsuit pursuant to the Policy.

40. Insurer failed to timely respond to Red Horse's tender as an insured under the Policy.

41. Said breach by Insurer has resulted in damage to Red Horse in the amount of defense fees and costs, including, but not limited to, those fees and costs of Defense Counsel.

42. Insurer has refused to defend and/or indemnify Red Horse and such that Red Horse was forced to retain undersigned counsel to pursue coverage such that Insurer is also responsible for Red Horse's fees and costs in this action pursuant to S.C. Code Ann. § 38-59-40 and other South Carolina law, and/or otherwise.

43. Red Horse has complied with all conditions precedent to the filing of this suit, but not withstanding the same, to the extent that there has been some failure to comply with conditions precedent, the failure of Red Horse to comply with said conditions neither prejudiced nor represented a material breach of the subject contracts. Alternatively, Insurer is estopped from asserting any defenses relating to conditions precedent.

**WHEREFORE**, Red Horse requests judgment against Insurer for damages, including pre-and post-judgment interest, taxable costs, taxation of attorneys' fees, as a result of prosecuting this action, along with any and all other relief this Honorable Court

deems just and proper.

### **COUNT III-BAD FAITH**

44. Red Horse re-alleges and incorporates the allegations contained in the preceding paragraphs, *supra*, as if such allegations had been fully set forth herein.

45. Insurer owed a duty to fully and properly investigate Red Horse's claim and tender and to defend Red Horse from claims in the Underlying covered under the Policy.

46. Insurer owed a duty of good faith and fair dealing not only in the payment of Red Horse's claim arising out of the insurance contract that is the Policy but also in the manner in which it was processed and handled.

47. Insurer breached the aforementioned duty of good faith and fair dealing, duty to defend, and duty to indemnify its insured, Red Horse, by failing to defend Red Horse, by failing to timely respond to Red Horse's tender for defense and indemnity, by failing to conduct coverage determination(s) and/or investigation(s) consistent with applicable standards and South Carolina law, by improperly denying coverage, and/or by other acts and/or inactions to be proven at trial.

48. The refusal of Insurer to properly investigate, defend, indemnify, negotiate, and participate in the settlement of the Underlying Lawsuit on Red Horse's behalf, or to take any actions to protect the interests of Red Horse, including but not limited to defending Red Horse, having its assigned counsel timely act on Red Horse's behalf and/or timely communicating with its insured, Red Horse, constitute bad faith towards its insured and proximately damaged Red Horse.

49. Upon information and belief, Insurer has also taken actions prohibited by S.C. Code Ann. § 38-59-20 as improper claims handling practices, including failing to

acknowledge with reasonable promptness pertinent communications with respect to claims arising under its Policy, including Red Horse's tender among other communications, failing to implement reasonable standards for the prompt investigation and settlement of claims, arising under its Policy, knowingly misrepresenting to Red Horse pertinent facts or policy provisions relating to coverages at issue or providing deceptive or misleading information with respect to coverages, and/or other acts and/or inactions to be shown at trial.

50. Said conduct described above by Insurer entitles Red Horse to an award of actual, consequential and punitive damages, together with an award of attorneys' fees from Insurer.

**WHEREFORE**, Red Horse respectfully requests that this Honorable Court enter a judgment in favor of Red Horse specifically finding that Insurer breached its duty of good faith to Red Horse in failing to honor its defense and indemnity obligations due and owing to Red Horse as an insured.

### **DEMAND FOR JURY TRIAL**

Pursuant to Rules 38 and 39, SCRPC, Plaintiff hereby demands trial by jury as to all claims and issues for which a right to jury trial exists.

[SIGNATURE ON NEXT PAGE]

s/ Laura Locklair

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ATTORNEYS FOR PLAINTIFFS



Dated: February 19, 2025



POLICY DOCUMENT

# Attune Mainstreet Businessowners' Policy

**POLICY HOLDER**

Pinillos, Fernando &amp; Ena DBA Red Horse Screen Printing

**PLACING BROKER**

Harrell Insurance Agency

**POLICY NUMBER**

1ABPSC05127380102

**EFFECTIVE DATE**

07/28/2023 to 07/28/2024



**OPEN FOR BUSINESS.**

Thank you for purchasing coverage through Attune Insurance Services, LLC, a program administrator for Accredited Surety and Casualty Company, Inc.

**FINALLY, PROTECTION FOR THE BUSINESS YOU WORKED HARD TO BUILD.**

Thanks to your broker, you have a Businessowners' Policy (BOP) for your business subject to this policy's terms and conditions.

Accredited Surety and Casualty Company, Inc. ("Accredited") is a wholly-owned subsidiary of Randall & Quilter Investment Holdings Ltd. Accredited is an A-rated (Excellent) and admitted insurer licensed in all 50 states and the District of Columbia.

**HERE'S HOW TO PAY YOUR INVOICE.**

By now, you should have received an email from Attune Insurance Services, LLC with a URL link to submit payment(s). Your coverage is conditioned on the timely payment of your premiums.

If you have additional questions about your bill, please call the Attune Customer Care Team at 888-530-4650.

**WE HOPE THIS NEVER HAPPENS, BUT HERE'S INFORMATION ON HOW TO FILE A CLAIM.**

All claims, regardless of severity or location, should be reported to North American Risk Services (NARS) as soon after the loss as possible.

**Telephone:** (800) 315-6090

**Online:** [www.narisk.com/report-a-claim/](http://www.narisk.com/report-a-claim/)

To expedite handling of your claim, please have the policy number, the policyholder and broker contact information, the date and time of loss, and a detailed description of the loss available.

**QUESTIONS ABOUT YOUR POLICY?**

Your broker is there to support you with questions regarding coverages or requests to make changes to your policy.

## PRIVACY NOTICE

FACTS	WHAT DOES R&Q DO WITH YOUR PERSONAL INFORMATION?
Why?	Financial companies choose how they share your personal information. Federal and state laws give consumers the right to limit some, but not all sharing. Federal and state laws also require us to tell you how we collect, share, and protect your personal information. Please read this notice carefully to understand what we do.
What?	<p>The types of personal information we collect and share depend on the product or service you have with us. This information can include:</p> <ul style="list-style-type: none"> <li>▪ Social Security number, account number, date of birth</li> <li>▪ Account balances, income, payment history</li> <li>▪ Credit card number, PIN</li> <li>▪ Credit scores, credit history</li> <li>▪ Loan records, taxes</li> <li>▪ Name, address, email, telephone number</li> <li>▪ Assets</li> <li>▪ Credit-based insurance scores, insurance claim history</li> <li>▪ Medical information</li> <li>▪ Criminal history</li> <li>▪ Employment information</li> <li>▪ Motor vehicle records.</li> </ul>
	We may disclose all of the information that we collect as described below.
How?	All financial companies need to share customers' personal information to run their everyday business. In the section below, we list the reasons financial companies can share their customers' personal information; the reasons R&Q chooses to share; and whether you can limit this sharing.

Reasons we can share your personal information	Does R&Q share?	Can you limit this sharing?
<p><b>For our everyday business purposes –</b> We may disclose your information without your prior authorization for our everyday business purposes, such as to process your transactions, maintain your account(s) and insurance policy(ies), respond to court orders and legal investigations or detect or prevent criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction. Additionally, we may share your information with our affiliates and nonaffiliated third parties to the extent necessary to service or process an insurance product or service that you have requested or authorized. For example, we may share your information with insurance agents, brokers or sales representatives, or other insurance companies or insurance support organizations to determine your eligibility for an insurance benefit or payment or to process claims. We are also permitted to disclose customer information to nonaffiliated third-party companies that perform services for us which have agreed to certain contractual protections regarding the use and disclosure of your information. For example, we may share your information with third-parties that provide claims investigations, medical examinations, inspection and appraisals, for roadside assistance or the repair of your vehicle if you have a claim.</p>	Yes	No

<b>For our marketing purposes –</b> to offer our products and services to you.	No	No, we don't share
<b>For joint marketing with other financial companies</b>	No	No, we don't share
<b>For our affiliates' everyday business purposes –</b> We only share information about your transactions and experiences with our affiliates. We do not share information we receive from a credit reporting agency or insurance support organization, such as motor vehicle records, credit report information and claims history.	Yes	No
<b>For our affiliates' everyday business purposes –</b> information about your credit worthiness.	No	No, we don't share
<b>As required by law or with your consent –</b> We share information with your consent or at your direction and to your legal representative as may be necessary. We may also share information without your prior authorization in response to a subpoena or request from a regulator; in connection with a merger, acquisition, reorganization, liquidation, change in control or other sale by R&Q (in each case whether in whole or in part); or to comply with federal, state or local laws and to protect against fraud.	Yes	No
<b>For our affiliates to market to you</b>	No	No, we don't share
<b>For nonaffiliates to market to you</b>	No	No, we don't share
<b>Who are we</b>		
<b>Who is providing this notice?</b>	Randall & Quilter America Holdings Inc.'s family of companies, including its affiliates listed below ("R&Q"). R&Q offers a broad range of insurance solutions, including insurance investments, reinsurance processing, administration and consulting services, underwriting and captives.	

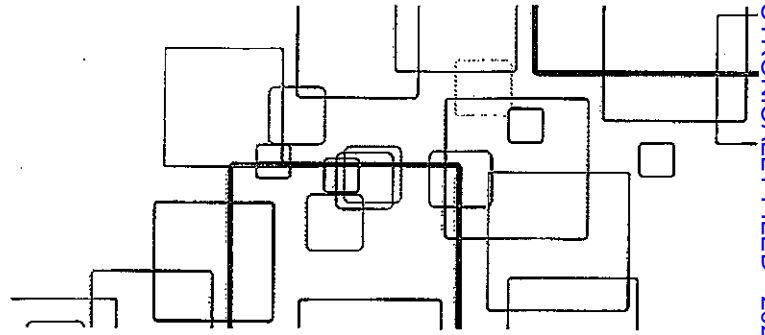
<b>What we do</b>	
<b>How does R&amp;Q protect my personal information?</b>	<p>To protect your personal information from unauthorized access and use, we use security measures that comply with federal and state laws. These measures include computer safeguards and secured files and buildings.</p> <p>R&amp;Q recognizes the need to prevent unauthorized access to the information we collect, including information held in electronic format, and we use commercially reasonable technical and physical security measures to protect your personal information in the following ways:</p> <ul style="list-style-type: none"> <li>▪ We restrict access to your personal information to those individuals, such as our employees, agents and service providers, who are contractually bound to keep this information confidential, agree to safeguard your personal information and who need that information to serve you or to assist us in conducting our operations.</li> <li>▪ We maintain physical, electronic and procedural safeguards that comply with applicable regulatory standards to guard your personal information.</li> <li>▪ We do not sell your information to mass marketing or telemarketing companies.</li> <li>▪ We do not disclose any non-public personal information about you except as described in this notice or as otherwise required or permitted by applicable law.</li> </ul>



<p><b>How does R&amp;Q collect my personal information?</b></p>	<p>R&amp;Q collects your personal information from you, for example, when you:</p> <ul style="list-style-type: none"> <li>• Provide information, such as your social security number, assets, income, and property information on applications or other forms;</li> <li>• Transact with us, our affiliates or others; and</li> <li>• Visit the websites we operate.</li> </ul> <p>R&amp;Q also collects your personal information from other sources. R&amp;Q may collect your personal information from nonaffiliated third parties, such as:</p> <ul style="list-style-type: none"> <li>• Consumer reporting agencies or insurance support organizations to receive information like motor vehicles records, credit report information and insurance claims history;</li> <li>• Information we receive from your employer and/or association for our products and services, such as employment information; and</li> <li>• If you obtain a life, long-term care or disability product, medical professionals who have provided care to you and insurance support organizations.</li> </ul>
<p><b>Why can't I limit all sharing?</b></p>	<p>Federal law gives you the right to limit only:</p> <ul style="list-style-type: none"> <li>▪ Sharing for affiliates' everyday business purposes – information about your creditworthiness</li> <li>▪ Affiliates from using your information to market to you</li> <li>▪ Sharing for nonaffiliates to market to you.</li> </ul> <p>State laws and individual companies may give you additional rights to limit sharing.</p> <p>We do not disclose any personal information about our customers or former customers to anyone, including our affiliates and nonaffiliated third parties, except as permitted by law, including but not limited to servicing or processing an insurance product or service, maintaining or servicing a customer account, providing reinsurance, preventing fraud, performing audits, complying with applicable laws and governmental requests and in connection with a merger, acquisition, reorganization, liquidation, change in control or other sale by or of us or any affiliated entity (in each case whether in whole or in part).</p>
<p><b>Definitions</b></p>	
<p><b>Affiliates</b></p>	<p>Companies related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>▪ Accredited Surety and Casualty Company, Inc.</li> <li>▪ Accredited Specialty Insurance Company</li> <li>▪ Global Reinsurance Corporation of America</li> <li>▪ ICDC, Ltd.</li> <li>▪ National Legacy Insurance Company</li> <li>▪ Randall &amp; Quilter Investment Holdings, Ltd.</li> <li>▪ R&amp;Q Reinsurance Company</li> <li>▪ R&amp;Q RI Insurance Company</li> <li>▪ Transport Insurance Company</li> </ul>
<p><b>Nonaffiliates</b></p>	<p>Companies not related by common ownership or control. They can be financial and nonfinancial companies.</p> <ul style="list-style-type: none"> <li>▪ These may include insurance companies other than R&amp;Q, reciprocals, investment companies, underwriters, brokers/dealers, reinsurers, insurance support organizations, adjusters, appraisers, banks, third</li> </ul>

	party administrators, benefit plan sponsors, consumer reporting agencies, our service providers (e.g., vendors that provide marketing services), medical providers and third parties such as the Medical Information Bureau.
<b>Joint marketing</b>	A formal agreement between nonaffiliated financial companies that together market financial products or services to you.

<b>Other important information</b>	
<b>California residents:</b> For accounts with a California mailing address, we will not share your personal information with a financial company for joint marketing purposes, except as required or permitted by law.	
<b>Vermont residents:</b> For accounts with a Vermont mailing address, we will not share your creditworthiness information with our affiliates, except as required or permitted by law.	
<b>Information Collected from an Insurance-Support Organization</b> Please note that information about you that we obtain from a report prepared by an insurance-support organization may be retained and disclosed by that organization.	
<b>Your Rights to Access, Correct, Amend and Delete Your Personal Information</b> You have the right to know what personal information we have collected about you. You also have the right to correct, amend or delete such information. To exercise these rights, please make your request in writing to <a href="mailto:privacy.info@accredited-inc.com">privacy.info@accredited-inc.com</a> and include your full name, mailing address, phone number and policy number. When we receive your written request, we will respond within thirty (30) business days. For requests to know the personal information we've collected about you, we will describe such personal information, whom we know we've shared it with in the last two (2) years, and how you may request a correction, if necessary. If we requested a consumer report, we will tell you the name and address of the consumer reporting agency. You may also view and copy the information we have, except for certain privileged documents such as those concerning claims and lawsuits. For requests to correct and amend your personal information, we will review your request and investigate the matter. If we agree with your request, we will correct our records, notify you and send a correction letter to anyone who received the original information. If we do not agree, you will be allowed to send us a statement explaining why you believe the information is incorrect, which will be attached to your file so that anyone reviewing the disputed information will see it.	
<b>Contact Us</b> If you have any questions about this notice, please contact us at <a href="mailto:privacy.info@accredited-inc.com">privacy.info@accredited-inc.com</a> or 1-800-432-2799.	



# The eRiskHub® Cyber Risk Management Portal

## Using the eRiskHub®

### Register:

**URL:** <https://eriskhub.com/attuneinsurance>

**Access Code:** 12116-362

Complete the entire registration form by creating a username and password.

### Log In:

After registering, log in with your username and password in the upper right hand corner and click "Login".

### Navigate:

Use your access to explore all that the eRiskHub® has to offer including cyber news and helpful guides on breaches, technical support, reporting a loss and more!

In today's digital world, no organization is safe from devastating breaches and computer attacks. Keep yourself informed and be prepared. Assess your risks and develop an effective response plan with the eRiskHub®.

## Understanding Your Cyber Risks

Knowing how to protect yourself against cyber attacks and breaches is important. The eRiskHub® assists with planning and preparing for a cyber attack or breach. Check in frequently to stay up to date with the right tools. Some of the highlights of having the eRiskHub® include:

- **Cyber Risk Tools:** Test your security knowledge with a self-assessment or a cyber protection survey.
- **Business Interruption Cost Calculator:** Use the cost calculator to explore how much a potential breach could cost and impact your business.
- **Incident Roadmap:** Follow a step-by-step process and use valuable checklists in the event of a data breach.
- **Cyber and Privacy News:** Stay informed by catching up on the latest cyber news stories and articles from security experts.
- **Resources:** Find the latest data on security breaches with downloadable articles and videos on data, security, insurance and risk management trends.
- **Training:** Understand how hackers can infiltrate a system with cyber security information to use in your business or find vendors that have training available for your employees.

In addition to the cyber risk management tools, Attune policyholders can also take advantage of the following complimentary services:

- **Free Cybersecurity Consult:** Several cybersecurity and digital forensics firms offer Attune policyholders an hour of free consultation on privacy and security.
- **Free Legal Consult:** Several law firms offer Attune policy holders an hour of free consultation on privacy and cybersecurity.

Check out Attune's eRiskHub® homepage for more information.



**POLICYHOLDER DISCLOSURE  
ACCEPTANCE/REJECTION OF TERRORISM INSURANCE COVERAGE  
NOTICE OF TERRORISM**

You are hereby notified that under the Terrorism Risk Insurance Act, as amended, you have a right to purchase insurance coverage for losses resulting from acts of terrorism. *As defined in Section 102(1) of the Act:* The term "act of terrorism" means any act or acts that are certified by the Secretary of the Treasury—in consultation with the Secretary of Homeland Security, and the Attorney General of the United States—to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the United States, or outside the United States in the case of certain air carriers or vessels or the premises of a United States mission; and to have been committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

YOU SHOULD KNOW THAT WHERE COVERAGE IS PROVIDED BY THIS POLICY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM, SUCH LOSSES MAY BE PARTIALLY REIMBURSED BY THE UNITED STATES GOVERNMENT UNDER A FORMULA ESTABLISHED BY FEDERAL LAW. HOWEVER, YOUR POLICY MAY CONTAIN OTHER EXCLUSIONS WHICH MIGHT AFFECT YOUR COVERAGE, SUCH AS AN EXCLUSION FOR NUCLEAR EVENTS. UNDER THE FORMULA, THE UNITED STATES GOVERNMENT GENERALLY REIMBURSES 80% BEGINNING ON JANUARY 1, 2020, OF COVERED TERRORISM LOSSES EXCEEDING THE STATUTORILY ESTABLISHED DEDUCTIBLE PAID BY THE INSURANCE COMPANY PROVIDING THE COVERAGE. THE PREMIUM CHARGED FOR THIS COVERAGE IS PROVIDED BELOW AND DOES NOT INCLUDE ANY CHARGES FOR THE PORTION OF LOSS THAT MAY BE COVERED BY THE FEDERAL GOVERNMENT UNDER THE ACT.

YOU SHOULD ALSO KNOW THAT THE TERRORISM RISK INSURANCE ACT, AS AMENDED, CONTAINS A \$100 BILLION CAP THAT LIMITS U.S. GOVERNMENT REIMBURSEMENT AS WELL AS INSURERS' LIABILITY FOR LOSSES RESULTING FROM CERTIFIED ACTS OF TERRORISM WHEN THE AMOUNT OF SUCH LOSSES IN ANY ONE CALENDAR YEAR EXCEEDS \$100 BILLION. IF THE AGGREGATE INSURED LOSSES FOR ALL INSURERS EXCEED \$100 BILLION, YOUR COVERAGE MAY BE REDUCED.

**Acceptance or Rejection of Terrorism Insurance Coverage**

<input type="checkbox"/>	I hereby elect to purchase terrorism coverage for a prospective premium of \$_____.
<input checked="" type="checkbox"/>	I hereby decline to purchase terrorism coverage for certified acts of terrorism. I understand that I will have no coverage for losses resulting from certified acts of terrorism.

\_\_\_\_\_  
Policyholder/Applicant Signature

\_\_\_\_\_  
Print Name  
07/28/2023

\_\_\_\_\_  
Date

**Accredited Casualty and Surety Company**

\_\_\_\_\_  
Insurance Company  
1ABPSC05127380102

\_\_\_\_\_  
Policy Number

B09 N 06 10 20

## NOTICE – ALUMINUM WIRING EXCLUSION

This Disclosure Notice is not your policy. **READ YOUR POLICY CAREFULLY** to determine rights, duties, and what is and is not covered. Only the provisions of your policy determine the extent of your insurance protection.

An Aluminum Wiring Exclusion has been attached to this policy. This exclusion states that we will not pay for loss or damage caused directly or indirectly by or resulting from aluminum wiring. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. This exclusion applies whether or not the loss event results in widespread damage or affects a substantial area.

But, we will pay for loss or damage to Covered Property resulting from fire caused by aluminum wiring if, prior to the fire causing the loss or damage, the aluminum wiring was remediated by a licensed electrician using the AlumiConn or Copalum connector methods; and all such remediation, including modifications and additions to installed wiring, was completed, inspected and approved and in compliance with all applicable local codes and laws.

We are attaching this exclusion to the policy because:

The U.S. Consumer Product Safety Commission (CPSC) staff and other government officials have investigated numerous hazardous incidents and fires throughout the nation involving aluminum branch circuit wiring. A national survey conducted by Franklin Research Institute for CPSC showed that buildings constructed prior to 1972, and wired with aluminum, are 55 times more likely to have one or more wire connections at outlets reach "Fire Hazard Conditions" than buildings wired with copper. The fire hazard investigated by CPSC occurs at connections with aluminum wire, including receptacles or switches and junction boxes; or the hazards occur with major appliances, including dishwashers or furnaces, for example. There are several deterioration processes in aluminum wire connections that cause increased resistance to the flow of electric current, resulting in damage that is cumulative in effect. That increased resistance causes overheating, sometimes at hazardous levels, when current is flowing in the circuit.

For additional information and recommended methods of repair, please visit the CPSC website for additional information ([www.cpsc.gov/CPSCPUB/PUBS/516.pdf](http://www.cpsc.gov/CPSCPUB/PUBS/516.pdf)).

Please read the exclusion carefully.

I understand that the above stated Aluminum Wiring Exclusion is attached to my policy:

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Signed

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Printed

IL N 001 09 03

## FRAUD STATEMENT

Any person who knowingly presents a false or fraudulent claim for payment of a loss or benefit or knowingly presents false information in an application for insurance is guilty of a crime and may be subject to fines and confinement in prison.

IL P 001 01 04

## **U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS**

No coverage is provided by this Policyholder Notice nor can it be construed to replace any provisions of your policy. You should read your policy and review your Declarations page for complete information on the coverages you are provided.

This Notice provides information concerning possible impact on your insurance coverage due to directives issued by OFAC. **Please read this Notice carefully.**

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous:

- Foreign agents;
- Front organizations;
- Terrorists;
- Terrorist organizations; and
- Narcotics traffickers;

as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's web site – <http://www.treas.gov/ofac>.

In accordance with OFAC regulations, if it is determined that you or any other insured, or any person or entity claiming the benefits of this insurance has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, this insurance will be considered a blocked or frozen contract and all provisions of this insurance are immediately subject to OFAC. When an insurance policy is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments also apply.



Accredited Surety and Casualty Company, Inc.

A Randall & Quilter Group Company  
 PO BOX 140854, ORLANDO, FL 32814  
 Telephone: (800) 432-2799

## COMMON POLICY DECLARATIONS

<b>Policy Number:</b>	1ABPSC05127380102	Renewal of 1ABPSC05127380101
<b>Policy Effective Dates:</b>	07/28/2023 to 07/28/2024 12:01 a.m. Standard Time at your mailing address	

Named Insured Name & Mailing Address	Producer Name & Mailing Address:	Sub-Producer Name & Mailing Address:
Pinillos, Fernando & Ena DBA Red Horse Screen Printing	Attune Insurance Services, LLC	Harrell Insurance Agency
1975 Dulsey Rd Bldg 1 Unit A	114 John St, PO box 997,	2000 Sam Rittenberg Blvd, Suite 124
Charleston SC 29407	New York, NY 10272	Charleston SC 29407

**Business Description:** Processing and Service - Printing

**Form of Business:** Corporation - public

**IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.**

This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.

COVERAGE PART(S)	PREMIUM
Capital Assets Program (Output Policy) Coverage Part	
Commercial Property Coverage Part	
Commercial Inland Marine Coverage Part	
Commercial Crime Coverage Part	
Commercial General Liability Coverage Part	
Commercial Automobile Coverage Part	
Businessowners	\$ 4,378.00
Errors & Omissions	
Excess Liability	
Workers Compensation	
<b>Total Premium</b>	<b>\$ 4,640.68</b> (includes \$ 262.68 tech fee + \$ 0.00 state taxes, surcharges and fees )

A minimum earned premium of \$100 applies when you cancel the policy prior to the expiration date.

THIS COMMON POLICY DECLARATION AND THE COVERAGE PART DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE NUMBERED POLICY.

ELECTRONICALLY FILED - 2025 Feb 19 1:03 PM - CHARLESTON - COMMON PLEAS - CASE#2025CP1000919

Insured Name:

Pinillos, Fernando &amp; Ena

Policy Number:

1ABPSC05127380102

## POLICY FORMS AND ENDORSEMENTS

The following forms and endorsements are applicable to your policy

Form Number	Edition Date	Title
B09 N 06	10 20	POLICYHOLDER DISCLOSURE ACCEPTANCE/REJECTION OF TERRORISM INSURANCE COVERAGE NOTICE OF TERRORISM
B10 N 01	10 20	NOTICE - ALUMINUM WIRING EXCLUSION
IL N 001	09 03	FRAUD STATEMENT
IL P 001	01 04	U.S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL ("OFAC") ADVISORY NOTICE TO POLICYHOLDERS
A09 D 01	12 19	COMMON POLICY DECLARATIONS
A09 5 02	12 19	POLICY FORMS AND ENDORSEMENTS
B09 D 01	10 20	COMMON POLICY TAX/FEE SCHEDULE
A09 5 06	04 21	AUTHORIZATION AND ATTESTATION
B10 D 01	10 20	BUSINESSOWNERS POLICY DECLARATIONS
B10 1 121	10 20	EQUIPMENT BREAKDOWN COVERAGE
BP 00 03	07 13	BUSINESSOWNERS COVERAGE FORM
BP 05 01	07 02	CALCULATION OF PREMIUM
BP 01 21	06 23	SOUTH CAROLINA CHANGES
BP 05 24	01 15	EXCLUSION OF CERTIFIED ACTS OF TERRORISM
B10 5 08	10 20	WINDSTORM OR HAIL PERCENTAGE DEDUCTIBLE ENDORSEMENT - SOUTH CAROLINA
B10 9 22	10 20	EXCLUSION - LEAD
B10 1 97	10 20	BUSINESSOWNERS ENHANCEMENT ENDORSEMENT
BP 04 17	01 10	EMPLOYMENT-RELATED PRACTICES EXCLUSION
B10 5 12	10 20	PROTECTIVE DEVICES ENDORSEMENT
BP 04 39	07 02	ABUSE OR MOLESTATION EXCLUSION
BP 04 47	07 13	ADDITIONAL INSURED - VENDORS
BP 04 48	07 13	ADDITIONAL INSURED - DESIGNATED PERSON OR ORGANIZATION
BP 04 92	07 02	TOTAL POLLUTION EXCLUSION
B10 1 79	10 20	WAIVER OF TRANSFER OF RIGHTS AGAINST OTHERS TO US
BP 05 17	01 06	EXCLUSION - SILICA OR SILICA-RELATED DUST
B10 5 94	10 20	ELECTRONIC DATA AND INTERRUPTION OF COMPUTER OPERATIONS COVERAGE LIMITATION

BP 05 77	01 06	FUNGI OR BACTERIA EXCLUSION (LIABILITY)
B10 5 06	10 20	WINDSTORM OR HAIL - BUSINESS INCOME SUBLIMIT
BP 10 05	07 02	EXCLUSION - YEAR 2000 COMPUTER-RELATED AND OTHER ELECTRONIC PROBLEMS
B10 9 07	10 20	PROFESSIONAL SERVICES PERFORMED BY UNLICENSED OR INELIGIBLE PERSONS EXCLUSION
B10 9 04	10 20	EXCLUSION - NUCLEAR HAZARD
BP 14 05	07 13	ADDITIONAL INSURED - GRANTOR OF FRANCHISE
BP 15 05	05 14	EXCLUSION - ACCESS OR DISCLOSURE OF CONFIDENTIAL OR PERSONAL INFORMATION AND DATA-RELATED LIABILITY - LIMITED BODILY INJURY EXCEPTION NOT INCLUDED
B10 9 10	10 20	LIMITED EXCLUSION - PERSONAL AND ADVERTISING INJURY - PROFESSIONAL SERVICES
B10 9 01	10 20	ASBESTOS EXCLUSION
B10 9 11	10 20	EXCLUSION - ALUMINUM WIRING
BP 14 86	07 13	COMMUNICABLE DISEASE EXCLUSION
BP 15 11	12 16	EXCLUSION - UNMANNED AIRCRAFT
B10 D 08	10 20	CYBER SUITE SUPPLEMENTAL DECLARATIONS
BP 15 60	02 21	CYBER INCIDENT EXCLUSION
B10 1 113	10 20	CYBER SUITE COVERAGE ENDORSEMENT





Accredited Surety and Casualty Company, Inc.

A Randall & Quilter Group Company  
 PO BOX 140854, ORLANDO, FL 32814  
 Telephone: (800) 432-2799

## COMMON POLICY FEE/TAX SCHEDULE

POLICY NUMBER: 1ABPSC05127380102

### Important Notices:

#### Taxes:

State	Description	Taxable Premium	Taxable Fee	Tax Basis	Rate (%)	Tax
<b>Total Taxes</b>						<b>\$ 0.00</b>

#### Fees:

A 3.2% processing fee applies to all card transactions

State	Fee	Taxable (Yes/No)	Amount
SC	Technology Fee	No	262.68
SC	Processing Fee	No	0
<b>Total Fees</b>			<b>\$ 262.68</b>

THESE DECLARATIONS, TOGETHER WITH THE ATTACHED SIGNATURE ENDORSEMENT, SCHEDULE OF FORMS AND ENDORSEMENTS, AND ANY FORMS AND ENDORSEMENTS THAT WE MAY LATER ATTACH TO REFLECT CHANGES, MAKE UP AND COMPLETE THE ABOVE NUMBERED POLICY.

## AUTHORIZATION AND ATTESTATION

### ACCREDITED SURETY AND CASUALTY COMPANY, INC.

PO Box 140856 Orlando, FL 32814

Servicing Office:

Attune Insurance Services, LLC

114 John St.

PO Box 997

New York, NY 10272

In Witness Whereof, we have caused this policy to be executed and attested.



Patrick J. Rastiello, President



Ken Portner, Corporate Secretary



Accredited Surety and Casualty Company, Inc.

A Randall & Quilter Group Company  
 PO BOX 140854, ORLANDO, FL 32814  
 Telephone: (800) 432-2799

## BUSINESSOWNERS POLICY DECLARATIONS

Premises Information			
Premises Number	Building Number	Premises Address: 1975 Dulsey Rd Bldg 1 Unit A, Charleston, SC, 29407	
1	1		
Premises Number	Building Number	Mortgageholder Name:	Mortgageholder Address:
1	1		
Premises Number	Building Number	Premises Address: 1991 Dulsey Road, A, Charleston, SC, 29407	
2	1		
Premises Number	Building Number	Mortgageholder Name:	Mortgageholder Address:
2	1		

IN RETURN FOR THE PAYMENT OF THE PREMIUM, AND SUBJECT TO ALL THE TERMS OF THIS POLICY, WE AGREE WITH YOU TO PROVIDE THE INSURANCE AS STATED IN THIS POLICY.

Description Of Business	
Form Of Business:	
<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership
<input type="checkbox"/> Joint Venture	<input type="checkbox"/> Limited Liability Company
<input checked="" type="checkbox"/> Other _____	
Business Description: Processing and Service - Printing	

### SECTION I - PROPERTY

Property Coverage Limits Of Insurance						
Premises Number	Building Number	Type Of Property (Building Or Business Personal Property)	Actual Cash Value Of Building Option (Yes Or No)	Automatic Increase Building Limit (Percentage)**	Business Personal Property - Seasonal Increase (Percentage)	Limit Of Insurance*
1	1	Business Personal Property	N/A	N/A	25%	\$545,700

2	1	Business Personal Property	N/A	N/A	25%	\$109,140
*Includes Automatic Increase Building Limit Percentage						
**This percentage can only vary by premises, not by building.						

Blanket Insurance	
Indicate the type of property to be blanketed, property to be included, and the blanket limit of insurance.	
Type Of Property	Limit Of Insurance
	Specific Limits Apply

Deductibles (Apply Per Location, Per Occurrence)			
Premises Number	Property Deductible	Optional Coverage (Other Than Equipment Breakdown Protection Coverage) Deductible	Windstorm Or Hail Percentage Deductible
1	\$ 2,500	\$ 2,500	See Applicable Form
2	\$ 2,500	\$ 2,500	See Applicable Form

Coverage – Equipment Breakdown Protection Coverage Deductibles	
Location: Prem. No. 1; Bldg. No. 1	
Coverages	Limits
Equipment Breakdown Limit	\$ 545,700
Data Restoration	\$ 50,000
Expediting Expenses	\$ 50,000
Hazardous Substances	\$ 50,000
Off Premises Equipment Breakdown	\$ 100,000
Spoilage	\$ 50,000
Resultant Damage to Animals	\$ 25,000
"Fungi," Wet Rot Or Dry Rot	\$ 15,000
Green Coverage	\$ 25,000
Service Interruption	\$ Included

<b>Location:</b> Prem. No. 2, Bldg. No. 1	
<b>Coverages</b>	<b>Limits</b>
Equipment Breakdown Limit	\$ 109,140
Data Restoration	\$ 50,000
Expediting Expenses	\$ 50,000
Hazardous Substances	\$ 50,000
Off Premises Equipment Breakdown	\$ 100,000
Spoilage	\$ 50,000
Resultant Damage to Animals	\$ 25,000
"Fungi," Wet Rot Or Dry Rot	\$ 15,000
Green Coverage	\$ 25,000
Service Interruption	\$ Included

<b>Theft Limitations – Optional Higher Limits (Per Policy)</b>		
<b>Description Of Property</b>	<b>Additional Premium</b>	<b>Limit Of Insurance</b>
Not Covered		

<b>Loss Or Damage To Customers' Autos (Legal Liability)</b>		
<b>Coverage</b>	<b>Additional Premium</b>	<b>Limit Of Insurance</b>
Loss Or Damage To Customers' Autos	Not Covered	Coverage Not Purchased

<b>Additional Coverages – Optional Higher Limits/Extended Number Of Days (Per Policy)</b>		
<b>Coverage</b>	<b>Additional Premium</b>	<b>Limit Of Insurance/ Extended Number Of Days</b>
Forgery Or Alteration	Included	\$ 2,500
Business Income – Extended Number Of Days For Ordinary Payroll Expenses	Included	60 Days
Extended Business Income – Extended Number Of Days	Included	60 Days
Electronic Data – Increased Limit (Section I – Property)	Included	\$ 10,000
Interruption Of Computer Operations – Increased Limit	Included	\$ 10,000

Additional Coverage – Optional Higher Limits (Per Premises)			
Coverage	Premises Number	Additional Premium	Limit Of Insurance
Fire Department Service Charge	1	Included	\$ 2,500
Fire Department Service Charge	2	Included	\$ 2,500

Additional Coverage – Business Income – Ordinary Payroll Additional Exemptions		
Coverage	Exempt Job Classifications	Exempt Employees
Additional Job Classifications not specified		

Additional Coverage – Optional Higher Limits (Per Classification)			
Coverage	Class Code	Additional Premium	Limit Of Insurance
Business Income From Dependent Properties	71912	Included	Optional Higher Limit Not Purchased
Business Income From Dependent Properties	71912	Included	Optional Higher Limit Not Purchased

Additional Coverage – Business Income From Dependent Properties	
Secondary Dependent Properties	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Coverage Extensions – Optional Higher Limits (Per Classification)			
Coverage	Class Code	Additional Premium	Limit Of Insurance
Accounts Receivable			Optional Higher Limit Not Purchased
"Valuable Papers and Records"			Optional Higher Limit Not Purchased
Outdoor Property			Optional Higher Limit Not Purchased
Business Personal Property Temporarily In Portable Storage Units			Optional Higher Limit Not Purchased
Other			

Optional Coverages (Applicable only if an "X" is shown in the boxes below)		
<b>Location: 1</b>		
Coverage	Limit Of Insurance	
1. <input checked="" type="checkbox"/> Outdoor Signs	\$ 0	Per Occurrence
2. <input checked="" type="checkbox"/> Money And Securities	\$ 0	Inside The Premises
	\$ 0	Outside The Premises
3. <input checked="" type="checkbox"/> Employee Dishonesty	\$ See enhancement	Per Occurrence
4. <input type="checkbox"/> Burglary And Robbery (Named Peril Endorsement only)		
Money And Securities (Amount included when Burglary And Robbery option is selected)		Inside The Premises
		Outside The Premises
5. <input type="checkbox"/> Other	Specify:	
Donation Assurance	\$0	
Crisis Communication Expense	\$0	

Location: 2		
Coverage	Limit Of Insurance	
1. <input checked="" type="checkbox"/> Outdoor Signs	\$ 0	Per Occurrence
2. <input checked="" type="checkbox"/> Money And Securities	\$ 0	Inside The Premises
	\$ 0	Outside The Premises
3. <input checked="" type="checkbox"/> Employee Dishonesty	\$ See enhancement	Per Occurrence
4. <input type="checkbox"/> Burglary And Robbery (Named Peril Endorsement only)		
Money And Securities (Amount included when Burglary And Robbery option is selected)		Inside The Premises
		Outside The Premises



Optional Coverages (Applicable only if an "X" is shown in the boxes below)	
5. <input type="checkbox"/> Other	Specify:
Donation Assurance	\$0
Crisis Communication Expense	\$0

## SECTION II – LIABILITY AND MEDICAL EXPENSES

Each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to Section II – Liability in the Businessowners Coverage Form and any attached endorsements.

Coverage	Limit Of Insurance	
Liability And Medical Expenses	\$ 1,000,000	Per Occurrence
Medical Expenses	\$ 5,000	Per Person
Damage To Premises Rented To You	\$ 50,000	Any One Premises
Other Than Products/Completed Operations Aggregate	\$ 2,000,000	
Products/Completed Operations Aggregate	\$ 2,000,000	

Optional Coverages (Applicable only if an "X" is shown in the boxes below)	
Location: Prem. No. 1, Bldg. No. 1	
Coverage	Limit Of Insurance
<input type="checkbox"/> Broadened Coverage For Damage To Premises Rented To You (BP 04 55)	Per Occurrence
<input type="checkbox"/> Self-storage Facilities - Customer Goods	Per Occurrence
Legal Liability (Optional Increased Limits)	
<input type="checkbox"/> Motels - Liability For Guests' Property (Optional Limits)	Per Occurrence
	Per Guest
<input type="checkbox"/> Motels - Liability For Guests' Property In Safe Deposit Boxes	Per Occurrence



Optional Coverages (Applicable only if an "X" is shown in the boxes below)	
Location: Prem. No. 2, Bldg. No. 1	
Coverage	Limit Of Insurance
<input type="checkbox"/> Broadened Coverage For Damage To Premises Rented To You (BP 04 55)	Per Occurrence
<input type="checkbox"/> Self-storage Facilities - Customer Goods	Per Occurrence
<input type="checkbox"/> Legal Liability (Optional Increased Limits)	
<input type="checkbox"/> Motels - Liability For Guests' Property (Optional Limits)	Per Occurrence
<input type="checkbox"/> Motels - Liability For Guests' Property In Safe Deposit Boxes	Per Guest Per Occurrence

Deductible
Optional Property Damage Liability Deductible: \$ No Deductible
<input type="checkbox"/> Per Claim (Refer to BP 07 03); or <input type="checkbox"/> Per Occurrence (Refer to BP 07 04); or

**Summary of Other Coverages**

The following is a summary of scheduled limits of insurance and additional coverage provided by this schedule. For complete details on specific coverage, refer to the appropriate provisions in the policy.

Coverage	Limit Of Insurance
Product Recall and Replacement	

The Total Annual Premium is	\$ 4,640.68 , and is payable
\$ 4,640.68	at inception, and
\$	at each anniversary.
Advance Premium:	\$
Policies Subject To Premium Audit (Y/N): Y	

THESE DECLARATIONS, TOGETHER WITH THE ATTACHED SIGNATURE ENDORSEMENT, SCHEDULE OF FORMS AND ENDORSEMENTS, AND ANY FORMS AND ENDORSEMENTS THAT WE MAY LATER ATTACH TO REFLECT CHANGES, MAKE UP AND COMPLETE THE ABOVE NUMBERED POLICY.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

### **EQUIPMENT BREAKDOWN COVERAGE (Including Electronic Circuitry Impairment)**

This endorsement modifies insurance provided under the following:  
BUSINESSOWNERS' COVERAGE FORM

A. The following is added to Paragraph A.3. Covered Causes of Loss in SECTION I – PROPERTY:

#### **Additional Coverage-- Equipment Breakdown**

The term Covered Cause of Loss includes the Additional Coverage Equipment Breakdown as described and limited below. Without an "accident" or "electronic circuitry impairment", there is no Equipment Breakdown Coverage.

1. We will pay for direct physical damage to Covered Property that is the direct result of an "accident" or "electronic circuitry impairment". We will consider "electronic circuitry impairment" to be physical damage to "covered equipment".
2. Unless otherwise shown in a "schedule", the following coverages also apply to the direct result of an "accident" or "electronic circuitry impairment". However, with respect to coverage 2.j. Service Interruption below and any Dependent Properties coverage provided by this policy, coverage will apply only to the direct result of an "accident" and will not apply to the direct result of an "electronic circuitry impairment". These coverages do not provide additional amounts of insurance.
  - a. **Business Income and Extra Expense**
    - (1) Any insurance provided under the policy for Business Income or Extra Expense is extended to the coverage provided by this endorsement. However, if a deductible is shown in a "schedule", then with respect to this endorsement only, the "period of restoration" will begin immediately after the "accident" or "electronic circuitry impairment", and the deductible shown in the "schedule" will apply.
    - (2) The most we will pay for loss or expense under this coverage is the applicable limit for Business Income and Extra Expense, unless otherwise shown in a "schedule".
  - b. **Data Restoration**
    - (1) We will pay for your reasonable and necessary cost to research, replace and restore lost "data".
    - (2) The most we will pay for loss or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000 unless otherwise shown in a "schedule".
  - c. **Expediting Expenses**
    - (1) With respect to your damaged Covered Property, we will pay the reasonable extra cost to:
      - (a) Make temporary repairs; and
      - (b) Expedite permanent repairs or permanent replacement.
    - (2) The most we will pay for loss or expense under this coverage is \$25,000 unless otherwise shown in a "schedule".
  - d. "Fungi", Wet Rot or Dry Rot

- (1) We will pay your additional cost to repair or replace Covered Property because of contamination by "fungi", wet rot or dry rot. This includes the additional costs to clean up or dispose of such property. This does not include spoilage of personal property that is "perishable goods" to the extent that such spoilage is covered under Spoilage coverage.
  - (2) As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "fungi", wet rot or dry rot been involved.
  - (3) We will also pay the cost of testing performed after repair or replacement of the damaged Covered Property is completed only to the extent that there is reason to believe there is the presence of "fungi", wet rot or dry rot.
  - (4) This coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.
  - (5) The most we will pay in any "one equipment breakdown" for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$15,000 unless otherwise shown in a "schedule" even if the "fungi", wet rot or dry rot continues to be present or active or recurs in a later policy period.
- e. Green
- (1) With respect to Covered Property, we will pay your additional cost to:
    - (a) Repair damaged property using equipment, materials and service firms required or recommended by a "recognized environmental standards program", if repair is the least expensive option;
    - (b) Replace damaged property using equipment, materials and service firms required or recommended by a "recognized environmental standards program", if replacement is the least expensive option;
    - (c) Dispose of damaged property or equipment, if practicable, through a recycling process; and
    - (d) Flush out reconstructed space with up to 100% outside air using new filtration media.
  - (2) With respect to any building that is Covered Property and was, at the time of the "accident" or "electronic circuitry impairment", certified by a "recognized environmental standards program", we will pay your additional cost:
    - (a) To prevent a lapse of such certification;
    - (b) To reinstate the certification or replace it with an equivalent certification;
    - (c) For an engineer authorized by a "recognized environmental standards program" to oversee the repair or replacement of the damaged Covered Property; and
    - (d) For a Professional Engineer to commission or recommission your damaged mechanical, electrical, or electronic building systems.
  - (3) As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage in the absence of this Green coverage.
  - (4) This coverage is subject to the following provisions:
    - (a) This coverage applies in addition to any coverage that may apply under the Environmental, Safety and Efficiency Improvements condition of this endorsement, or any other applicable coverage.

- (b) This coverage only applies to Covered Property that must be repaired or replaced as a direct result of an "accident" or "electronic circuitry impairment".
  - (c) This coverage does not apply to any Covered Property to which Actual Cash Value applies.
- (5) The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000 unless otherwise shown in a "schedule".
- f. **Hazardous Substances**
  - (1) We will pay your additional cost to repair or replace Covered Property because of contamination by a "hazardous substance". This includes the additional expenses to clean up or dispose of such property.
  - (2) This does not include contamination of "perishable goods" by refrigerant, including but not limited to ammonia, which is addressed in 2.k.(1)(b) below. As used in this coverage, additional costs mean those beyond what would have been payable under this Equipment Breakdown Coverage had no "hazardous substance" been involved.
  - (3) The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, is \$25,000 unless otherwise shown in a "schedule".
- g. **Off Premises Equipment Breakdown**
  - (1) We will pay for physical damage to transportable "covered equipment" that, at the time of the "accident" or "electronic circuitry impairment", is not at a covered location. As respects this Off Premises Equipment Breakdown coverage only, the "accident" or "electronic circuitry impairment" may occur in any country except one in which the United States has imposed sanctions, embargoes or similar restrictions on the provision of insurance.
  - (2) We will also pay for your reasonable and necessary cost to research, replace and restore lost "data" contained within "covered equipment" as described under (1) above. This amount may not exceed the limit applicable to Data Restoration coverage.
  - (3) The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur and Data Restoration as described in (2) above is \$100,000 unless otherwise shown in a "schedule".
- h. **Public Relations**
  - (1) This coverage only applies if you have sustained an actual loss of Business Income covered under this endorsement.
  - (2) We will pay for your reasonable costs for professional services to create and disseminate communications, when the need for such communications arises directly from the interruption of your business. This communication must be directed to one or more of the following:
    - (a) The media;
    - (b) The public; or
    - (c) Your customers, clients or members.
  - (3) Such costs must be incurred during the "period of restoration" or up to 30 days after the "period of restoration" has ended.
  - (4) The most we will pay for loss or expense under this coverage is \$5,000.
- i. **Resultant Damage to Animals**
  - (1) Any insurance provided under the policy for "animals" is extended to the coverage provided by this endorsement.



- (2) The most we will pay for loss, damage or expense under this coverage, including actual loss of Business Income you sustain and necessary Extra Expense you incur, if shown as covered, is \$25,000.

j. Service Interruption

- (1) Any insurance provided for Business Income, Extra Expense, Data Restoration or Spoilage is extended to apply to your loss, damage or expense caused by a failure or disruption of service. The failure or disruption of service must be caused by an "accident" to equipment, including overhead transmission lines, that is owned by a utility, landlord, a landlord's utility or other supplier who provides you with any of the following services: electrical power, waste disposal, air conditioning, refrigeration, heating, natural gas, compressed air, water, steam, Internet access, telecommunications services, "cloud computing services", wide area networks or data transmission. The equipment must meet the definition of "covered equipment" except that it is not Covered Property.
- (2) "Cloud computing services" must be provided by a professional provider with whom you have a contract.
- (3) With respect to the Data Restoration portion of this Service Interruption coverage, coverage will also apply to "data" stored in the equipment of a provider of "cloud computing services".
- (4) Unless otherwise shown in a "schedule", Service Interruption coverage will not apply unless the failure or disruption of service exceeds 24 hours immediately following the "accident". If the interruption exceeds 24 hours, coverage will begin at the time of the interruption, and the applicable deductible will apply.
- (5) The most we will pay in any "one equipment breakdown" for loss, damage or expense under this coverage is the applicable limit for Business Income, Extra Expense, Data Restoration or Spoilage, except that if a limit is shown in a "schedule" for Service Interruption, that limit will apply to Business Income and Extra Expense loss under this coverage.

k. Spoilage

- (1) We will pay for:
- (a) Physical damage to "perishable goods" due to spoilage;
- (b) Physical damage to "perishable goods" due to contamination from the release of refrigerant, including but not limited to ammonia;
- (c) Any necessary expenses you incur to reduce the amount of loss under this coverage to the extent that they do not exceed the amount of loss that otherwise would have been payable under this coverage.
- (2) If you are unable to replace the "perishable goods" before its anticipated sale, the amount of our payment will be determined on the basis of the sales price of the "perishable goods" at the time of the "accident" or "electronic circuitry impairment", less discounts and expenses you otherwise would have had. Otherwise our payment will be determined in accordance with the Loss Payment condition.
- (3) The most we will pay for loss, damage or expense under this coverage is \$25,000 unless otherwise shown in a "schedule".

B. The following is added to Paragraph B. Exclusions:

All exclusions in the Businessowners Coverage Form apply except as modified below and to the extent that coverage is specifically provided by this endorsement.

1. The following exclusions are modified:

- a. As respects this endorsement only, the next to the last paragraph in Exclusion B.1.h. is deleted and replaced with the following:  
However, if excluded loss or damage, as described in Paragraph (1) above results in an "accident" or "electronic circuitry impairment", we will pay only for the loss, damage or expense caused by such "accident" or "electronic circuitry impairment".
- b. As respects this endorsement only, the last paragraph of Exclusion B.2.1. is deleted and replaced with the following:  
But if an excluded cause of loss that is listed in 2.1.(1) through (7) results in an "accident" or "electronic circuitry impairment", we will pay for the loss, damage or expense caused by that "accident" or "electronic circuitry impairment".
- c. The following is added to Exclusions B.2.m. and B.2.n.:  
We will also pay for direct physical loss or damage caused by an "accident" or "electronic circuitry impairment".

2. The following exclusions are added:

- a. We will not pay for loss, damage or expense caused directly or indirectly by any of the following, whether or not caused by or resulting from an "accident" or "electronic circuitry impairment":
  - (1) Fire, including smoke from a fire;
  - (2) Explosion of gas or unconsumed fuel within the furnace of any boiler or fired vessel or within the passages from that furnace to the atmosphere;
  - (3) Any other explosion, except as specifically covered under this endorsement;
  - (4) Any earth movement, including but not limited to earthquake, subsidence, sinkhole collapse, landslide, earth sinking, tsunami or volcanic action; or
  - (5) Flood; surface water, waves, tides, tidal waves, overflow of any body of water, or their spray, all whether driven by wind or not; mudslide or mudflow; or water that backs up or overflows from a sewer, drain or sump. However, if electrical "covered equipment" requires drying out because of the above, we will pay for the direct expenses of such drying out subject to the applicable Limit of Insurance and deductible for Building or Business Personal Property, whichever applies; or
  - (6) Vandalism.
- b. Coverage under this endorsement does not apply to an "accident" or "electronic circuitry impairment" caused by or resulting from:
  - (1) Lightning;
  - (2) Windstorm or hail. However this exclusion does not apply when:
    - (a) "Covered equipment" located within a building or structure suffers an "accident" or "electronic circuitry impairment" that results from wind-blown rain, snow, sand or dust; and
    - (b) The building or structure did not first sustain wind or hail damage to its roof or walls through which the rain, snow, sand or dust entered.
  - (3) Smoke; aircraft or vehicles; riot or civil commotion; sprinkler leakage; elevator collision;
  - (4) Breakage of glass; falling objects; weight of snow, ice or sleet; freezing (caused by cold weather); collapse or molten material;
  - (5) A hydrostatic, pneumatic or gas pressure test of any boiler or pressure vessel, or an electrical insulation breakdown test of any type of electrical equipment; or

- (6) Water or other means used to extinguish a fire.
- c. With respect to Business Income, Extra Expense and Service Interruption coverages, we will also not pay for any increase in loss resulting from an agreement between you and your customer or supplier.
- d. Except as specifically provided under A.2.d. "Fungi", Wet Rot or Dry Rot coverage, we will not pay for loss, damage or expense caused directly or indirectly by the following, whether or not caused by or resulting from an "accident" or "electronic circuitry impairment": Any "fungi", wet rot or dry rot, including any presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot. This includes, but is not limited to, costs arising from clean up, removal, or abatement of such "fungi", wet rot or dry rot. However, this exclusion does not apply to spoilage of personal property that is "perishable goods", to the extent that such spoilage is covered under Spoilage coverage.
- e. Except as specifically provided under A.2.b., Data Restoration, or A.2.i., Resultant Damage to Animals, we will not pay for loss, damage or expense caused directly or indirectly by the following, whether or not caused by or resulting from an "accident" or "electronic circuitry impairment":
  - (1) Physical loss or damage to "animals";
  - (2) Loss, interruption or compromise of any research, test or study involving "animals"; or
  - (3) Loss of income or extra expense resulting from (a) or (b) above.
- f. Exclusions 2.b.(1), 2.b.(2), 2.b.(3) and 2.b.(4) above shall not apply if:
  - (1) The excluded cause of loss occurs away from any covered location and causes an electrical surge or other electrical disturbance;
  - (2) Such surge or disturbance is transmitted through utility service transmission lines to the covered location and results in an "accident" or "electronic circuitry impairment"; and
  - (3) The loss, damage or expense caused by such surge or disturbance is not covered elsewhere under the policy.

### C. DEDUCTIBLES

The deductible in the Declarations applies unless a separate Equipment Breakdown deductible is shown in a "schedule". If a separate Equipment Breakdown deductible is shown, the following applies.

Only as regards Equipment Breakdown Coverage, provision D. Deductibles is deleted and replaced with the following:

- 1. Deductibles for Each Coverage
  - a. Unless the "schedule" indicates that your deductible is combined for all coverages, multiple deductibles may apply to any "one equipment breakdown".
  - b. We will not pay for loss, damage or expense under any coverage until the amount of the covered loss, damage or expense exceeds the deductible amount indicated for that coverage in the "schedule". We will then pay the amount of loss, damage or expense in excess of the applicable deductible amount, subject to the applicable limit.
  - c. If deductibles vary by type of "covered equipment" and more than one type of "covered equipment" is involved in any "one equipment breakdown", only the highest deductible for each coverage will apply.
- 2. Direct and Indirect Coverages
  - a. Direct Coverages Deductibles and Indirect Coverages Deductibles may be indicated in the "schedule".
  - b. Unless more specifically indicated in the "schedule":
    - (1) Indirect Coverages Deductibles apply to Business Income and Extra Expense loss; and

- (2) Direct Coverages Deductibles apply to all remaining loss, damage or expense covered by this endorsement.

3. Application of Deductibles

a. Dollar Deductibles

We will not pay for loss, damage or expense resulting from any "one equipment breakdown" until the amount of loss, damage or expense exceeds the applicable deductible shown in the "schedule". We will then pay the amount of loss, damage or expense in excess of the applicable deductible or deductibles, up to the applicable Limit of Insurance.

b. Time Deductible

If a time deductible is shown in the "schedule", we will not be liable for any loss occurring during the specified number of hours or days immediately following the "accident" or "electronic circuitry impairment". If a time deductible is expressed in days, each day shall mean twenty-four consecutive hours.

c. Multiple of Average Daily Value (ADV)

If a deductible is expressed as a number times ADV, that amount will be calculated as follows:

The ADV (Average Daily Value) will be the Business Income (as defined in any Business Income coverage that is part of this policy) that would have been earned during the period of interruption of business had no "accident" or "electronic circuitry impairment" occurred, divided by the number of working days in that period. No reduction shall be made for the Business Income not being earned, or in the number of working days, because of the "accident" or "electronic circuitry impairment" or any other scheduled or unscheduled shutdowns during the period of interruption. The ADV applies to the Business Income value of the entire location, whether or not the loss affects the entire location. If more than one location is included in the valuation of the loss, the ADV will be the combined value of all affected locations. For purposes of this calculation, the period of interruption may not extend beyond the "period of restoration". The number indicated in the "schedule" will be multiplied by the ADV as determined above. The result shall be used as the applicable deductible.

d. Percentage of Loss Deductibles

If a deductible is expressed as a percentage of loss, we will not be liable for the indicated percentage of the gross amount of loss, damage or expense (prior to any applicable deductible or coinsurance) insured under the applicable coverage. If the dollar amount of such percentage is less than the indicated minimum deductible, the minimum deductible will be the applicable deductible.

D. CONDITIONS

1. The following conditions are in addition to the Conditions in the Businessowners Coverage Form.

a. Suspension

Whenever "covered equipment" is found to be in, or exposed to, a dangerous condition, any of our representatives may immediately suspend the insurance against loss from an "accident" or "electronic circuitry impairment" to that "covered equipment". This can be done by mailing or delivering a written notice of suspension to:

(1) Your last known address; or

(2) The address where the "covered equipment" is located.

Once suspended in this way, your insurance can be reinstated only by an endorsement for that "covered equipment". If we suspend your insurance, you will get a pro rata refund of premium for that "covered equipment" for the period of suspension. But the suspension will be effective even if we have not yet made or offered a refund.



b. **Jurisdictional Inspections**

If any property that is "covered equipment" under this endorsement requires inspection to comply with state or municipal boiler and pressure vessel regulations, we agree to perform such inspection on your behalf. We do not warrant that conditions are safe or healthful.

2. As respects this endorsement only, Loss Payment Condition 5.d. in the Businessowners Coverage Form is deleted and replaced with the following:

d. We will determine the value of Covered Property as follows:

- (1) Except as specified otherwise, our payment for damaged Covered Property will be the smallest of:
  - (a) The cost to repair the damaged property;
  - (b) The cost to replace the damaged property on the same site; or
  - (c) The amount you actually spend that is necessary to repair or replace the damaged property.
- (2) The amount of our payment will be based on the most cost-effective means to replace the function, capacity and remaining useful life of the damaged property. This may include the use of generic, used or reconditioned parts, equipment or property.
- (3) Except as described in (4) below, you must pay the extra cost of replacing damaged property with property of a better kind or quality or of a different size or capacity.
- (4) **Environmental, Safety and Efficiency Improvements**  
If "covered equipment" requires replacement due to an "accident" or "electronic circuitry impairment", we will pay your additional cost to replace with equipment that is better for the environment, safer for people or more energy or water efficient than the equipment being replaced. However, we will not pay to increase the size or capacity of the equipment and we will not pay more than 150% of what the cost would have been to replace with like kind and quality. This provision does not apply to the replacement of component parts or to any property to which Actual Cash Value applies and does not increase any of the applicable limits.
- (5) The following property will be valued on an Actual Cash Value basis:
  - (a) Any property that does not currently serve a useful or necessary function for you;
  - (b) Any Covered Property that you do not repair or replace within 24 months after the date of the "accident" or "electronic circuitry impairment"; and
  - (c) Any Covered Property for which Actual Cash Value coverage is specified in a "schedule".Actual Cash Value includes deductions for depreciation.
- (6) If any one of the following conditions is met, property held for sale by you will be valued at the sales price as if no loss or damage had occurred, less any discounts and expenses that otherwise would have applied:
  - (a) The property was manufactured by you;
  - (b) The sales price of the property is less than the replacement cost of the property; or
  - (c) You are unable to replace the property before its anticipated sale.
- (7) Except as specifically provided for under Data Restoration coverage, "data" and "media" will be valued on the following basis:
  - (a) For mass-produced and commercially available software, at the replacement cost.
  - (b) For all other "data" and "media", at the cost of blank "media" for reproducing the records. We will not pay for "data" representing

financial records based on the face value of such records.

## E. DEFINITIONS

The following definitions are added with respect to this endorsement only:

1. "Accident"
  - a. "Accident" means a fortuitous event that causes direct physical damage to "covered equipment". The event must be one of the following:
    - (1) Mechanical breakdown, including rupture or bursting caused by centrifugal force;
    - (2) Artificially generated electrical current, including electric arcing, that disturbs electrical devices, appliances or wires;
    - (3) Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control;
    - (4) Loss or damage to steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment; or
    - (5) Loss or damage to hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment.
  - b. None of the following is an "accident":
    - (1) Defect, programming error, programming limitation, computer virus, malicious code, loss of "data", loss of access, loss of use, loss of functionality or other condition within or involving "data" or "media" of any kind; or
    - (2) Misalignment, miscalibration, tripping off-line, or any condition which can be corrected by resetting, tightening, adjusting or cleaning, or by the performance of maintenance.

However, if an "accident" results, we will pay for the resulting loss, damage or expense caused by that "accident".
2. "Animal" means any creature of the kingdom Animalia. This includes, but is not limited to, amphibians, birds, fish, insects, mammals, reptiles, and worms.
3. "Boilers and vessels" means:
  - a. Any boiler, including attached steam, condensate and feedwater piping; and
  - b. Any fired or unfired pressure vessel subject to vacuum or internal pressure other than the static pressure of its contents.

This term does not appear elsewhere in this endorsement, but may appear in a "schedule".
4. "Cloud computing services" means professional, on-demand, self-service data storage or data processing services provided through the Internet or over telecommunications lines. This includes services known as IaaS (infrastructure as a service), PaaS (platform as a service), SaaS (software as a service) and NaaS (network as a service). This includes business models known as public clouds, community clouds and hybrid clouds. "Cloud computing services" include private clouds if such services are owned and operated by a third party.
5. "Covered equipment"
  - a. "Covered equipment" means, unless otherwise specified in a "schedule",  
Covered Property:
    - (1) That generates, transmits or utilizes energy; or
    - (2) Which, during normal usage, operates under vacuum or pressure, other than the weight of its contents."Covered equipment" may utilize conventional design and technology or new or newly commercialized design and technology.
  - b. None of the following is "covered equipment":
    - (1) Structure, foundation, cabinet or compartment;

- (2) Insulating or refractory material;
  - (3) Sewer piping, buried vessels or piping, or piping forming a part of a sprinkler or fire suppression system;
  - (4) Water piping other than boiler feedwater piping, boiler condensate return piping or water piping forming a part of a refrigerating or air conditioning system;
  - (5) "Vehicle" or any equipment mounted on a "vehicle";
  - (6) Satellite, spacecraft or any equipment mounted on a satellite or spacecraft;
  - (7) Dragline, excavation or construction equipment; or
  - (8) Equipment manufactured by you for sale.
6. "Data" means information or instructions stored in digital code capable of being processed by machinery.
7. "Electronic circuitry" means microelectronic components, including but not limited to circuit boards, integrated circuits, computer chips and disk drives.
8. "Electronic circuitry impairment"
- a. "Electronic circuitry impairment" means a fortuitous event involving "electronic circuitry" within "covered equipment" that causes the "covered equipment" to suddenly lose its ability to function as it had been functioning immediately before such event. This definition is subject to the conditions specified in b., c. and d. below.
  - b. We shall determine that the reasonable and appropriate remedy to restore such "covered equipment's" ability to function is the replacement of one or more "electronic circuitry" components of the "covered equipment".
  - c. The "covered equipment" must be owned or leased by you, or operated under your control.
  - d. None of the following is an "electronic circuitry impairment":
    - (1) Any condition that can be reasonably remedied by:
      - (a) Normal maintenance, including but not limited to replacing expendable parts, recharging batteries or cleaning;
      - (b) Rebooting, reloading or updating software or firmware; or
      - (c) Providing necessary power or supply.
    - (2) Any condition caused by or related to:
      - (a) Incompatibility of the "covered equipment" with any software or equipment installed, introduced or networked within the prior 30 days; or
      - (b) Insufficient size, capability or capacity of the "covered equipment".
    - (3) Exposure to adverse environmental conditions, including but not limited to change in temperature or humidity, unless such conditions result in an observable loss of functionality. Loss of warranty shall not be considered an observable loss of functionality.
9. "Hazardous substance" means any substance that is hazardous to health or has been declared to be hazardous to health by a governmental agency.
10. "Media" means material on which "data" is recorded, such as solid state drives, hard disks, optical disks, flash drives, magnetic tapes or floppy disks.
11. "One equipment breakdown" means: If an initial "accident" or "electronic circuitry impairment" causes other "accidents" or "electronic circuitry impairments", all will be considered "one equipment breakdown". All "accidents" or "electronic circuitry impairments" that are the result of the same "accident" or "electronic circuitry impairment" will be considered "one equipment breakdown".
12. "Perishable goods" means personal property maintained under controlled conditions for its preservation, and susceptible to loss or damage if the controlled conditions change.

13. "Production machinery" means any machine or apparatus that processes or produces a product intended for eventual sale. This includes all component parts of such machine or apparatus and any other equipment used exclusively with such machine or apparatus. However, "production machinery" does not mean any boiler, or fired or unfired pressure vessel.
- This term does not appear elsewhere in this endorsement, but may appear in a "schedule".
14. "Recognized environmental standards program" means one of the following:
- a. The United States Environmental Protection Agency ENERGY STAR® program;
  - b. The U.S. Green Building Council LEED® program;
  - c. The Green Building Initiative GREEN GLOBES® program; or
  - d. Any nationally or internationally recognized environmental standards program designed to achieve energy savings and related objectives of the type included in the programs listed above.
15. "Schedule" means the Equipment Breakdown Coverage Section of the Businessowners Policy Declarations.
16. "Vehicle" means any machine or apparatus that is used for transportation or moves under its own power. "Vehicle" includes, but is not limited to: car, truck, bus, trailer, train, aircraft, watercraft, forklift, bulldozer, tractor or harvester.
- However, any property that is stationary, permanently installed at a covered location and that receives electrical power from an external power source will not be considered a "vehicle".

The most we will pay for loss, damage or expense under this endorsement arising from any "one equipment breakdown" is the applicable Limit of Insurance in the Declarations unless otherwise shown in a "schedule". Coverage provided under this endorsement does not provide an additional amount of insurance.

ALL OTHER PROVISIONS OF THIS POLICY APPLY.



**BUSINESSOWNERS**  
BP 00 03 07 13

## BUSINESSOWNERS COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this Coverage Form, the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the company providing this insurance.

In Section II – Liability, the word "insured" means any person or organization qualifying as such under Paragraph C. Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Paragraph H. Property Definitions in Section I – Property and Paragraph F. Liability And Medical Expenses Definitions in Section II – Liability.

### SECTION I – PROPERTY

#### A. Coverage

We will pay for direct physical loss of or damage to Covered Property at the premises described in the Declarations caused by or resulting from any Covered Cause of Loss.

##### 1. Covered Property

Covered Property includes Buildings as described under Paragraph a. below, Business Personal Property as described under Paragraph b. below, or both, depending on whether a Limit Of Insurance is shown in the Declarations for that type of property. Regardless of whether coverage is shown in the Declarations for Buildings, Business Personal Property, or both, there is no coverage for property described under Paragraph 2. Property Not Covered.

a. Buildings, meaning the buildings and structures at the premises described in the Declarations, including:

- (1) Completed additions;
- (2) Fixtures, including outdoor fixtures;
- (3) Permanently installed:

- (a) Machinery; and
- (b) Equipment;

(4) Your personal property in apartments, rooms or common areas furnished by you as landlord;

(5) Personal property owned by you that is used to maintain or service the buildings or structures or the premises, including:

- (a) Fire extinguishing equipment;
- (b) Outdoor furniture;
- (c) Floor coverings; and
- (d) Appliances used for refrigerating, ventilating, cooking, dishwashing or laundering;

(6) If not covered by other insurance:

- (a) Additions under construction, alterations and repairs to the buildings or structures;
- (b) Materials, equipment, supplies and temporary structures, on or within 100 feet of the described premises, used for making additions, alterations or repairs to the buildings or structures.

b. Business Personal Property located in or on the buildings or structures at the described premises or in the open (or in a vehicle) within 100 feet of the buildings or structures or within 100 feet of the premises described in the Declarations, whichever distance is greater, including:

(1) Property you own that is used in your business;

(2) Property of others that is in your care, custody or control, except as otherwise provided in Loss Payment Property Loss Condition Paragraph E.5.d.(3)(b);

(3) Tenant's improvements and betterments. Improvements and betterments are fixtures, alterations, installations or additions:

(a) Made a part of the building or structure you occupy but do not own; and

(b) You acquired or made at your expense but cannot legally remove;

(4) Leased personal property which you have a contractual responsibility to insure, unless otherwise provided for under Paragraph 1.b.(2); and

- (5) Exterior building glass, if you are a tenant and no Limit Of Insurance is shown in the Declarations for Building property. The glass must be owned by you or in your care, custody or control.

## 2. Property Not Covered

Covered Property does not include:

- a. Aircraft, automobiles, motortrucks and other vehicles subject to motor vehicle registration;
- b. "Money" or "securities" except as provided in the:
  - (1) Money And Securities Optional Coverage; or
  - (2) Employee Dishonesty Optional Coverage;
- c. Contraband, or property in the course of illegal transportation or trade;
- d. Land (including land on which the property is located), water, growing crops or lawns (other than lawns which are part of a vegetated roof);
- e. Outdoor fences, radio or television antennas (including satellite dishes) and their lead-in wiring, masts or towers, signs (other than signs attached to buildings), trees, shrubs or plants (other than trees, shrubs or plants which are part of a vegetated roof), all except as provided in the:
  - (1) Outdoor Property Coverage Extension; or
  - (2) Outdoor Signs Optional Coverage;
- f. Watercraft (including motors, equipment and accessories) while afloat;
- g. Accounts, bills, food stamps, other evidences of debt, accounts receivable or "valuable papers and records"; except as otherwise provided in this policy;
- h. "Computer(s)" which are permanently installed or designed to be permanently installed in any aircraft, watercraft, motortruck or other vehicle subject to motor vehicle registration. This paragraph does not apply to "computer(s)" while held as "stock";

- i. "Electronic data", except as provided under Additional Coverages – Electronic Data. This Paragraph i. does not apply to your "stock" of prepackaged software or to "electronic data" which is integrated in and operates or controls the building's elevator, lighting, heating, ventilation, air conditioning or security system; or

- j. Animals, unless owned by others and boarded by you, or if owned by you, only as "stock" while inside of buildings.

## 3. Covered Causes Of Loss

Direct physical loss unless the loss is excluded or limited under Section I – Property.

## 4. Limitations

- a. We will not pay for loss of or damage to:

- (1) Steam boilers, steam pipes, steam engines or steam turbines caused by or resulting from any condition or event inside such equipment. But we will pay for loss of or damage to such equipment caused by or resulting from an explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.
- (2) Hot water boilers or other water heating equipment caused by or resulting from any condition or event inside such boilers or equipment, other than an explosion.
- (3) Property that is missing, where the only evidence of the loss or damage is a shortage disclosed on taking inventory, or other instances where there is no physical evidence to show what happened to the property. This limitation does not apply to the Optional Coverage for Money and Securities.
- (4) Property that has been transferred to a person or to a place outside the described premises on the basis of unauthorized instructions.
- (5) The interior of any building or structure, or to personal property in the building or structure, caused by or resulting from rain, snow, sleet, ice, sand or dust, whether driven by wind or not, unless:
  - (a) The building or structure first sustains damage by a Covered Cause of Loss to its roof or walls through which the rain, snow, sleet, ice, sand or dust enters; or

- (b) The loss or damage is caused by or results from thawing of snow, sleet or ice on the building or structure.
- (6) Lawns, trees, shrubs or plants which are part of a vegetated roof, caused by or resulting from:
  - (a) Dampness or dryness of atmosphere or of soil supporting the vegetation;
  - (b) Changes in or extremes of temperature;
  - (c) Disease;
  - (d) Frost or hail; or
  - (e) Rain, snow, ice or sleet.
- b. We will not pay for loss of or damage to the following types of property unless caused by the "specified causes of loss" or building glass breakage:
  - (1) Animals, and then only if they are killed or their destruction is made necessary.
  - (2) Fragile articles such as glassware, statuary, marble, chinaware and porcelain, if broken. This restriction does not apply to:
    - (a) Glass that is part of the exterior or interior of a building or structure;
    - (b) Containers of property held for sale; or
    - (c) Photographic or scientific instrument lenses.
- c. For loss or damage by theft, the following types of property are covered only up to the limits shown (unless a higher Limit Of Insurance is shown in the Declarations):
  - (1) \$2,500 for furs, fur garments and garments trimmed with fur.
  - (2) \$2,500 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals. This limit does not apply to jewelry and watches worth \$100 or less per item.
  - (3) \$2,500 for patterns, dies, molds and forms.

## 5. Additional Coverages

### a. Debris Removal

- (1) Subject to Paragraphs (2), (3) and (4), we will pay your expense to remove debris of Covered Property and other debris that is on the described premises, when such debris is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date of direct physical loss or damage.
- (2) Debris Removal does not apply to costs to:
  - (a) Remove debris of property of yours that is not insured under this policy, or property in your possession that is not Covered Property;
  - (b) Remove debris of property owned by or leased to the landlord of the building where your described premises are located, unless you have a contractual responsibility to insure such property and it is insured under this policy;
  - (c) Remove any property that is Property Not Covered, including property addressed under the Outdoor Property Coverage Extension;
  - (d) Remove property of others of a type that would not be Covered Property under this policy;
  - (e) Remove deposits of mud or earth from the grounds of the described premises;
  - (f) Extract "pollutants" from land or water; or
  - (g) Remove, restore or replace polluted land or water.
- (3) Subject to the exceptions in Paragraph (4), the following provisions apply:
  - (a) The most that we will pay for the total of direct physical loss or damage plus debris removal expense is the Limit of Insurance applicable to the Covered Property that has sustained loss or damage.



(b) Subject to Paragraph (3)(a) above, the amount we will pay for debris removal expense is limited to 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage. However, if no Covered Property has sustained direct physical loss or damage, the most we will pay for removal of debris of other property (if such removal is covered under this Additional Coverage) is \$5,000 at each location.

(4) We will pay up to an additional \$25,000 for debris removal expense, for each location, in any one occurrence of physical loss or damage to Covered Property, if one or both of the following circumstances apply:

(a) The total of the actual debris removal expense plus the amount we pay for direct physical loss or damage exceeds the Limit of Insurance on the Covered Property that has sustained loss or damage.

(b) The actual debris removal expense exceeds 25% of the sum of the deductible plus the amount that we pay for direct physical loss or damage to the Covered Property that has sustained loss or damage.

Therefore, if Paragraphs (4)(a) and/or (4)(b) apply, our total payment for direct physical loss or damage and debris removal expense may reach but will never exceed the Limit of Insurance on the Covered Property that has sustained loss or damage, plus \$25,000.

#### (5) Examples

##### Example 1

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 50,000
Amount of Loss Payable	\$ 49,500
	(\$50,000 - \$500)
Debris Removal Expense	\$ 10,000
Debris Removal Expense Payable	\$ 10,000
	(\$10,000 is 20% of \$50,000)

The debris removal expense is less than 25% of the sum of the loss payable plus the deductible. The sum of the loss payable and the debris removal expense (\$49,500 + \$10,000 = \$59,500) is less than the Limit of Insurance. Therefore, the full amount of debris removal expense is payable in accordance with the terms of Paragraph (3).

##### Example 2

Limit of Insurance	\$ 90,000
Amount of Deductible	\$ 500
Amount of Loss	\$ 80,000
Amount of Loss Payable	\$ 79,500
	(\$80,000 - \$500)
Debris Removal Expense	\$ 40,000
Debris Removal Expense Payable	

Basic Amount \$ 10,500

Additional Amount \$ 25,000

The basic amount payable for debris removal expense under the terms of Paragraph (3) is calculated as follows: \$80,000 (\$79,500 + \$500) x .25 = \$20,000; capped at \$10,500. The cap applies because the sum of the loss payable (\$79,500) and the basic amount payable for debris removal expense (\$10,500) cannot exceed the Limit of Insurance (\$90,000).

The additional amount payable for debris removal expense is provided in accordance with the terms of Paragraph (4), because the debris removal expense (\$40,000) exceeds 25% of the loss payable plus the deductible (\$40,000 is 50% of \$80,000), and because the sum of the loss payable and debris removal expense (\$79,500 + \$40,000 = \$119,500) would exceed the Limit of Insurance (\$90,000). The additional amount of covered debris removal expense is \$25,000, the maximum payable under Paragraph (4). Thus, the total payable for debris removal expense in this example is \$35,500; \$4,500 of the debris removal expense is not covered.

**b. Preservation Of Property**

If it is necessary to move Covered Property from the described premises to preserve it from loss or damage by a Covered Cause of Loss, we will pay for any direct physical loss of or damage to that property:

- (1) While it is being moved or while temporarily stored at another location; and
- (2) Only if the loss or damage occurs within 30 days after the property is first moved.

**c. Fire Department Service Charge**

When the fire department is called to save or protect Covered Property from a Covered Cause of Loss, we will pay up to \$2,500 for service at each premises described in the Declarations, unless a different limit is shown in the Declarations. Such limit is the most we will pay regardless of the number of responding fire departments or fire units, and regardless of the number or type of services performed.

This Additional Coverage applies to your liability for fire department service charges:

- (1) Assumed by contract or agreement prior to loss; or
- (2) Required by local ordinance.

**d. Collapse**

The coverage provided under this Additional Coverage – Collapse applies only to an abrupt collapse as described and limited in Paragraphs d.(1) through d.(7).

- (1) For the purpose of this Additional Coverage – Collapse, abrupt collapse means an abrupt falling down or caving in of a building or any part of a building with the result that the building or part of the building cannot be occupied for its intended purpose.
- (2) We will pay for direct physical loss or damage to Covered Property, caused by abrupt collapse of a building or any part of a building that is insured under this policy or that contains Covered Property insured under this policy, if such collapse is caused by one or more of the following:
  - (a) Building decay that is hidden from view, unless the presence of such decay is known to an insured prior to collapse;

- (b) Insect or vermin damage that is hidden from view, unless the presence of such damage is known to an insured prior to collapse;

- (c) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs during the course of the construction, remodeling or renovation.

- (d) Use of defective material or methods in construction, remodeling or renovation if the abrupt collapse occurs after the construction, remodeling or renovation is complete, but only if the collapse is caused in part by:
  - (i) A cause of loss listed in Paragraph (2)(a) or (2)(b);
  - (ii) One or more of the "specified causes of loss";
  - (iii) Breakage of building glass;
  - (iv) Weight of people or personal property; or
  - (v) Weight of rain that collects on a roof.

(3) This Additional Coverage – Collapse does not apply to:

- (a) A building or any part of a building that is in danger of falling down or caving in;
- (b) A part of a building that is standing, even if it has separated from another part of the building; or
- (c) A building that is standing or any part of a building that is standing, even if it shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.

(4) With respect to the following property:

- (a) Awnings;
- (b) Gutters and downspouts;
- (c) Yard fixtures;
- (d) Outdoor swimming pools;
- (e) Piers, wharves and docks;
- (f) Beach or diving platforms or appurtenances;
- (g) Retaining walls; and
- (h) Walks, roadways and other paved surfaces;

if an abrupt collapse is caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d), we will pay for loss or damage to that property only if such loss or damage is a direct result of the abrupt collapse of a building insured under this policy and the property is Covered Property under this policy.

- (5) If personal property abruptly falls down or caves in and such collapse is **not** the result of abrupt collapse of a building, we will pay for loss or damage to Covered Property caused by such collapse of personal property only if:

- (a) The collapse of personal property was caused by a cause of loss listed in Paragraphs (2)(a) through (2)(d) of this Additional Coverage;
- (b) The personal property which collapses is inside a building; and
- (c) The property which collapses is not of a kind listed in Paragraph (4), regardless of whether that kind of property is considered to be personal property or real property.

The coverage stated in this Paragraph (5) does not apply to personal property if marring and/or scratching is the only damage to that personal property caused by the collapse.

- (6) This Additional Coverage – Collapse does not apply to personal property that has not abruptly fallen down or caved in, even if the personal property shows evidence of cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion.
- (7) This Additional Coverage – Collapse will not increase the Limits of Insurance provided in this policy.
- (8) The term Covered Cause of Loss includes the Additional Coverage – Collapse as described and limited in Paragraphs d.(1) through d.(7).

**e. Water Damage, Other Liquids, Powder Or Molten Material Damage**

If loss or damage caused by or resulting from covered water or other liquid, powder or molten material occurs, we will also pay the cost to tear out and replace any part of the building or structure to repair damage to the system or appliance from which the water or other substance escapes.

We will not pay the cost to repair any defect that caused the loss or damage, but we will pay the cost to repair or replace damaged parts of fire extinguishing equipment if the damage:

- (1) Results in discharge of any substance from an automatic fire protection system; or
- (2) Is directly caused by freezing.

**f. Business Income**

**(1) Business Income**

- (a) We will pay for the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration". The suspension must be caused by direct physical loss of or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (i) The portion of the building which you rent, lease or occupy;
- (ii) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
- (iii) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.

(b) We will only pay for loss of Business Income that you sustain during the "period of restoration" and that occurs within 12 consecutive months after the date of direct physical loss or damage. We will only pay for ordinary payroll expenses for 60 days following the date of direct physical loss or damage, unless a greater number of days is shown in the Declarations.

(c) Business Income means the:

(i) Net Income (Net Profit or Loss before income taxes) that would have been earned or incurred if no physical loss or damage had occurred, but not including any Net Income that would likely have been earned as a result of an increase in the volume of business due to favorable business conditions caused by the impact of the Covered Cause of Loss on customers or on other businesses; and

(ii) Continuing normal operating expenses incurred, including payroll.

(d) Ordinary payroll expenses:

(i) Means payroll expenses for all your employees except:

- i. Officers;
- ii. Executives;
- iii. Department Managers;
- iv. Employees under contract; and
- v. Additional Exemptions shown in the Declarations as:

- Job Classifications; or
- Employees.

(ii) Include:

- i. Payroll;
- ii. Employee benefits, if directly related to payroll;
- iii. FICA payments you pay;
- iv. Union dues you pay; and
- v. Workers' compensation premiums.

## (2) Extended Business Income

(a) If the necessary suspension of your "operations" produces a Business Income loss payable under this policy, we will pay for the actual loss of Business Income you incur during the period that:

(i) Begins on the date property except finished stock is actually repaired, rebuilt or replaced and "operations" are resumed; and

(ii) Ends on the earlier of:

i. The date you could restore your "operations", with reasonable speed, to the level which would generate the Business Income amount that would have existed if no direct physical loss or damage had occurred; or

ii. 60 consecutive days after the date determined in Paragraph (a)(i) above, unless a greater number of consecutive days is shown in the Declarations.

However, Extended Business Income does not apply to loss of Business Income incurred as a result of unfavorable business conditions caused by the impact of the Covered Cause of Loss in the area where the described premises are located.

(b) Loss of Business Income must be caused by direct physical loss or damage at the described premises caused by or resulting from any Covered Cause of Loss.

(3) With respect to the coverage provided in this Additional Coverage, suspension means:

(a) The partial slowdown or complete cessation of your business activities; or

(b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

(4) This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.



**g. Extra Expense**

- (1) We will pay necessary Extra Expense you incur during the "period of restoration" that you would not have incurred if there had been no direct physical loss or damage to property at the described premises. The loss or damage must be caused by or result from a Covered Cause of Loss. With respect to loss of or damage to personal property in the open or personal property in a vehicle, the described premises include the area within 100 feet of such premises.

With respect to the requirements set forth in the preceding paragraph, if you occupy only part of a building, your premises mean:

- (a) The portion of the building which you rent, lease or occupy;
  - (b) The area within 100 feet of the building or within 100 feet of the premises described in the Declarations, whichever distance is greater (with respect to loss of or damage to personal property in the open or personal property in a vehicle); and
  - (c) Any area within the building or at the described premises, if that area services, or is used to gain access to, the portion of the building which you rent, lease or occupy.
- (2) Extra Expense means expense incurred:
- (a) To avoid or minimize the suspension of business and to continue "operations":
    - (i) At the described premises; or
    - (ii) At replacement premises or at temporary locations, including relocation expenses, and costs to equip and operate the replacement or temporary locations.
  - (b) To minimize the suspension of business if you cannot continue "operations".

**(c) To:**

- (i) Repair or replace any property; or
  - (ii) Research, replace or restore the lost information on damaged "valuable papers and records";
- to the extent it reduces the amount of loss that otherwise would have been payable under this Additional Coverage or Additional Coverage f. Business Income.
- (3) With respect to the coverage provided in this Additional Coverage, suspension means:
- (a) The partial slowdown or complete cessation of your business activities; or
  - (b) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.
- (4) We will only pay for Extra Expense that occurs within 12 consecutive months after the date of direct physical loss or damage. This Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

**h. Pollutant Clean-up And Removal**

We will pay your expense to extract "pollutants" from land or water at the described premises if the discharge, dispersal, seepage, migration, release or escape of the "pollutants" is caused by or results from a Covered Cause of Loss that occurs during the policy period. The expenses will be paid only if they are reported to us in writing within 180 days of the date on which the Covered Cause of Loss occurs.

This Additional Coverage does not apply to costs to test for, monitor or assess the existence, concentration or effects of "pollutants". But we will pay for testing which is performed in the course of extracting the "pollutants" from the land or water.

The most we will pay for each location under this Additional Coverage is \$10,000 for the sum of all such expenses arising out of Covered Causes of Loss occurring during each separate 12-month period of this policy.

**i. Civil Authority**

When a Covered Cause of Loss causes damage to property other than property at the described premises, we will pay for the actual loss of Business Income you sustain and necessary Extra Expense caused by action of civil authority that prohibits access to the described premises, provided that both of the following apply:

- (1) Access to the area immediately surrounding the damaged property is prohibited by civil authority as a result of the damage, and the described premises are within that area but are not more than one mile from the damaged property; and
- (2) The action of civil authority is taken in response to dangerous physical conditions resulting from the damage or continuation of the Covered Cause of Loss that caused the damage, or the action is taken to enable a civil authority to have unimpeded access to the damaged property.

Civil Authority Coverage for Business Income will begin 72 hours after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of up to four consecutive weeks from the date on which such coverage began.

Civil Authority Coverage for necessary Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will end:

- (1) Four consecutive weeks after the date of that action; or
- (2) When your Civil Authority Coverage for Business Income ends;

whichever is later.

The definitions of Business Income and Extra Expense contained in the Business Income and Extra Expense Additional Coverages also apply to this Civil Authority Additional Coverage. The Civil Authority Additional Coverage is not subject to the Limits of Insurance of Section I – Property.

**j. Money Orders And "Counterfeit Money"**

We will pay for loss resulting directly from your having accepted in good faith, in exchange for merchandise, "money" or services:

- (1) Money orders issued by any post office, express company or bank that are not paid upon presentation; or
- (2) "Counterfeit money" that is acquired during the regular course of business.

The most we will pay for any loss under this Additional Coverage is \$1,000.

**k. Forgery Or Alteration**

- (1) We will pay for loss resulting directly from forgery or alteration of any check, draft, promissory note, bill of exchange or similar written promise of payment in "money" that you or your agent has issued, or that was issued by someone who impersonates you or your agent.
- (2) If you are sued for refusing to pay the check, draft, promissory note, bill of exchange or similar written promise of payment in "money", on the basis that it has been forged or altered, and you have our written consent to defend against the suit, we will pay for any reasonable legal expenses that you incur in that defense.
- (3) For the purpose of this coverage, check includes a substitute check as defined in the Check Clearing for the 21st Century Act and will be treated the same as the original it replaced.
- (4) The most we will pay for any loss, including legal expenses, under this Additional Coverage is \$2,500, unless a higher Limit Of Insurance is shown in the Declarations.

**l. Increased Cost Of Construction**

- (1) This Additional Coverage applies only to buildings insured on a replacement cost basis.
- (2) In the event of damage by a Covered Cause of Loss to a building that is Covered Property, we will pay the increased costs incurred to comply with the minimum standards of an ordinance or law in the course of repair, rebuilding or replacement of damaged parts of that property, subject to the limitations stated in Paragraphs (3) through (9) of this Additional Coverage.

- (3) The ordinance or law referred to in Paragraph (2) of this Additional Coverage is an ordinance or law that regulates the construction or repair of buildings or establishes zoning or land use requirements at the described premises and is in force at the time of loss.
- (4) Under this Additional Coverage, we will not pay any costs due to an ordinance or law that:
- (a) You were required to comply with before the loss, even when the building was undamaged; and
  - (b) You failed to comply with.
- (5) Under this Additional Coverage, we will not pay for:
- (a) The enforcement of or compliance with any ordinance or law which requires demolition, repair, replacement, reconstruction, remodeling or remediation of property due to contamination by "pollutants" or due to the presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot; or
  - (b) Any costs associated with the enforcement of or compliance with an ordinance or law which requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants", "fungi", wet rot or dry rot.
- (6) The most we will pay under this Additional Coverage for each described building insured under Section I – Property, is \$10,000. If a damaged building(s) is covered under a blanket Limit of Insurance which applies to more than one building or item of property, then the most we will pay under this Additional Coverage for each damaged building, is \$10,000.

The amount payable under this Additional Coverage is additional insurance.

- (7) With respect to this Additional Coverage:

- (a) We will not pay for the Increased Cost of Construction:

- (i) Until the property is actually repaired or replaced, at the same or another premises; and
- (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage, not to exceed two years. We may extend this period in writing during the two years.

- (b) If the building is repaired or replaced at the same premises, or if you elect to rebuild at another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the same premises.

- (c) If the ordinance or law requires relocation to another premises, the most we will pay for the Increased Cost of Construction is the increased cost of construction at the new premises.

- (8) This Additional Coverage is not subject to the terms of the Ordinance Or Law Exclusion, to the extent that such exclusion would conflict with the provisions of this Additional Coverage.

- (9) The costs addressed in the Loss Payment Property Loss Condition in Section I – Property do not include the increased cost attributable to enforcement of or compliance with an ordinance or law. The amount payable under this Additional Coverage, as stated in Paragraph (6) of this Additional Coverage, is not subject to such limitation.

**m. Business Income From Dependent Properties**

- (1) We will pay for the actual loss of Business Income you sustain due to physical loss or damage at the premises of a dependent property or secondary dependent property caused by or resulting from any Covered Cause of Loss.



However, this Additional Coverage does not apply when the only loss at the premises of a dependent property or secondary dependent property is loss or damage to "electronic data", including destruction or corruption of "electronic data". If the dependent property or secondary dependent property sustains loss or damage to "electronic data" and other property, coverage under this Additional Coverage will not continue once the other property is repaired, rebuilt or replaced.

The most we will pay under this Additional Coverage is \$5,000 unless a higher Limit Of Insurance is indicated in the Declarations.

- (2) We will reduce the amount of your Business Income loss, other than Extra Expense, to the extent you can resume "operations", in whole or in part, by using any other available:
  - (a) Source of materials; or
  - (b) Outlet for your products.
- (3) If you do not resume "operations", or do not resume "operations" as quickly as possible, we will pay based on the length of time it would have taken to resume "operations" as quickly as possible.
- (4) Dependent property means property owned by others whom you depend on to:
  - (a) Deliver materials or services to you, or to others for your account. But services does not mean water supply services, wastewater removal services, communication supply services or power supply services;
  - (b) Accept your products or services;
  - (c) Manufacture your products for delivery to your customers under contract for sale; or
  - (d) Attract customers to your business.

The dependent property must be located in the coverage territory of this policy.
- (5) Secondary dependent property means an entity which is not owned or operated by a dependent property and which:
  - (a) Delivers materials or services to a dependent property, which in turn are used by the dependent property in providing materials or services to you; or

- (b) Accepts materials or services from a dependent property, which in turn accepts your materials or services.

A road, bridge, tunnel, waterway, airfield, pipeline or any other similar area or structure is not a secondary dependent property.

Any property which delivers any of the following services is not a secondary dependent property with respect to such services:

- (i) Water supply services;
- (ii) Wastewater removal services;
- (iii) Communication supply services; or
- (iv) Power supply services.

The secondary dependent property must be located in the coverage territory of this policy.

- (6) The coverage period for Business Income under this Additional Coverage:
  - (a) Begins 72 hours after the time of direct physical loss or damage caused by or resulting from any Covered Cause of Loss at the premises of the dependent property or secondary dependent property; and
  - (b) Ends on the date when the property at the premises of the dependent property or secondary dependent property should be repaired, rebuilt or replaced with reasonable speed and similar quality.
- (7) The Business Income coverage period, as stated in Paragraph (6), does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:
  - (a) Regulates the construction, use or repair, or requires the tearing down of any property; or
  - (b) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not reduce the Business Income coverage period.

- (8) The definition of Business Income contained in the Business Income Additional Coverage also applies to this Business Income From Dependent Properties Additional Coverage.

**n. Glass Expenses**

- (1) We will pay for expenses incurred to put up temporary plates or board up openings if repair or replacement of damaged glass is delayed.
- (2) We will pay for expenses incurred to remove or replace obstructions when repairing or replacing glass that is part of a building. This does not include removing or replacing window displays.

**o. Fire Extinguisher Systems Recharge Expense**

- (1) We will pay:
- (a) The cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged on or within 100 feet of the described premises; and
- (b) For loss or damage to Covered Property if such loss or damage is the result of an accidental discharge of chemicals from a fire extinguisher or a fire extinguishing system.
- (2) No coverage will apply if the fire extinguishing system is discharged during installation or testing.
- (3) The most we will pay under this Additional Coverage is \$5,000 in any one occurrence.

**p. Electronic Data**

- (1) Subject to the provisions of this Additional Coverage, we will pay for the cost to replace or restore "electronic data" which has been destroyed or corrupted by a Covered Cause of Loss. To the extent that "electronic data" is not replaced or restored, the loss will be valued at the cost of replacement of the media on which the "electronic data" was stored, with blank media of substantially identical type.

- (2) The Covered Causes of Loss applicable to Business Personal Property include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

- (3) The most we will pay under this Additional Coverage – Electronic Data for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved, is \$10,000, unless a higher Limit Of Insurance is shown in the Declarations. If loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

- (4) This Additional Coverage does not apply to your "stock" of prepackaged software, or to "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

**q. Interruption Of Computer Operations**

- (1) Subject to all provisions of this Additional Coverage, you may extend the insurance that applies to Business Income and Extra Expense to apply to a suspension of "operations" caused by an interruption in computer operations due to destruction or corruption of "electronic data" due to a Covered Cause of Loss.

(2) With respect to the coverage provided under this Additional Coverage, the Covered Causes of Loss are subject to the following:

(a) Coverage under this Additional Coverage – Interruption Of Computer Operations is limited to the "specified causes of loss" and Collapse.

(b) If the Businessowners Coverage Form is endorsed to add a Covered Cause of Loss, the additional Covered Cause of Loss does not apply to the coverage provided under this Additional Coverage.

(c) The Covered Causes of Loss include a computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation. But there is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

(3) The most we will pay under this Additional Coverage – Interruption Of Computer Operations for all loss sustained and expense incurred in any one policy year, regardless of the number of interruptions or the number of premises, locations or computer systems involved, is \$10,000 unless a higher Limit Of Insurance is shown in the Declarations. If loss payment relating to the first interruption does not exhaust this amount, then the balance is available for loss or expense sustained or incurred as a result of subsequent interruptions in that policy year. A balance remaining at the end of a policy year does not increase the amount of insurance in the next policy year. With respect to any interruption which begins in one policy year and continues or results in additional loss or expense in a subsequent policy year(s), all loss and expense is deemed to be sustained or incurred in the policy year in which the interruption began.

(4) This Additional Coverage – Interruption Of Computer Operations does not apply to loss sustained or expense incurred after the end of the "period of restoration", even if the amount of insurance stated in (3) above has not been exhausted.

(5) Coverage for Business Income does not apply when a suspension of "operations" is caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.



(6) Coverage for Extra Expense does not apply when action is taken to avoid or minimize a suspension of "operations" caused by destruction or corruption of "electronic data", or any loss or damage to "electronic data", except as provided under Paragraphs (1) through (4) of this Additional Coverage.

(7) This Additional Coverage does not apply when loss or damage to "electronic data" involves only "electronic data" which is integrated in and operates or controls a building's elevator, lighting, heating, ventilation, air conditioning or security system.

**r. Limited Coverage For "Fungi", Wet Rot Or Dry Rot**

(1) The coverage described in Paragraphs r.(2) and r.(6) only applies when the "fungi", wet rot or dry rot is the result of a "specified cause of loss" other than fire or lightning that occurs during the policy period and only if all reasonable means were used to save and preserve the property from further damage at the time of and after that occurrence.

This Additional Coverage does not apply to lawns, trees, shrubs or plants which are part of a vegetated roof.

(2) We will pay for loss or damage by "fungi", wet rot or dry rot. As used in this Limited Coverage, the term loss or damage means:

- (a) Direct physical loss or damage to Covered Property caused by "fungi", wet rot or dry rot, including the cost of removal of the "fungi", wet rot or dry rot;
- (b) The cost to tear out and replace any part of the building or other property as needed to gain access to the "fungi", wet rot or dry rot; and
- (c) The cost of testing performed after removal, repair, replacement or restoration of the damaged property is completed, provided there is a reason to believe that "fungi", wet rot or dry rot is present.

(3) The coverage described under this Limited Coverage is limited to \$15,000. Regardless of the number of claims, this limit is the most we will pay for the total of all loss or damage arising out of all occurrences of "specified causes of loss" (other than fire or lightning) which take place in a 12-month period (starting with the beginning of the present annual policy period). With respect to a particular occurrence of loss which results in "fungi", wet rot or dry rot, we will not pay more than the total of \$15,000 even if the "fungi", wet rot or dry rot continues to be present or active, or recurs, in a later policy period.

(4) The coverage provided under this Limited Coverage does not increase the applicable Limit of Insurance on any Covered Property. If a particular occurrence results in loss or damage by "fungi", wet rot or dry rot, and other loss or damage, we will not pay more, for the total of all loss or damage, than the applicable Limit of Insurance on the affected Covered Property.

If there is covered loss or damage to Covered Property, not caused by "fungi", wet rot or dry rot, loss payment will not be limited by the terms of this Limited Coverage, except to the extent that "fungi", wet rot or dry rot causes an increase in the loss. Any such increase in the loss will be subject to the terms of this Limited Coverage.

(5) The terms of this Limited Coverage do not increase or reduce the coverage provided under the Water Damage, Other Liquids, Powder Or Molten Material Damage or Collapse Additional Coverages.

- (6) The following applies only if Business Income and/or Extra Expense Coverage applies to the described premises and only if the suspension of "operations" satisfies all the terms and conditions of the applicable Business Income and/or Extra Expense Additional Coverage:

- (a) If the loss which resulted in "fungi", wet rot or dry rot does not in itself necessitate a suspension of "operations", but such suspension is necessary due to loss or damage to property caused by "fungi", wet rot or dry rot, then our payment under the Business Income and/or Extra Expense Additional Coverages is limited to the amount of loss and/or expense sustained in a period of not more than 30 days. The days need not be consecutive.
- (b) If a covered suspension of "operations" was caused by loss or damage other than "fungi", wet rot or dry rot, but remediation of "fungi", wet rot or dry rot prolongs the "period of restoration", we will pay for loss and/or expense sustained during the delay (regardless of when such a delay occurs during the "period of restoration"), but such coverage is limited to 30 days. The days need not be consecutive.

#### 6. Coverage Extensions

In addition to the Limits of Insurance of Section I – Property, you may extend the insurance provided by this policy as provided below.

Except as otherwise provided, the following extensions apply to property located in or on the building described in the Declarations or in the open (or in a vehicle) within 100 feet of the described premises:

##### a. Newly Acquired Or Constructed Property

###### (1) Buildings

If this policy covers Buildings, you may extend that insurance to apply to:

- (a) Your new buildings while being built on the described premises; and
- (b) Buildings you acquire at premises other than the one described, intended for:
- (i) Similar use as the building described in the Declarations; or
- (ii) Use as a warehouse.

The most we will pay for loss or damage under this Extension is \$250,000 at each building.

##### (2) Business Personal Property

If this policy covers Business Personal Property, you may extend that insurance to apply to:

- (a) Business Personal Property, including such property that you newly acquire, at any location you acquire; or
- (b) Business Personal Property, including such property that you newly acquire, located at your newly constructed or acquired buildings at the location described in the Declarations.

This Extension does not apply to personal property that you temporarily acquire in the course of installing or performing work on such property or your wholesale activities.

The most we will pay for loss or damage under this Extension is \$100,000 at each building.

##### (3) Period Of Coverage

With respect to insurance provided under this Coverage Extension for Newly Acquired Or Constructed Property, coverage will end when any of the following first occurs:

- (a) This policy expires;
- (b) 30 days expire after you acquire the property or begin construction of that part of the building that would qualify as Covered Property; or
- (c) You report values to us.

We will charge you additional premium for values reported from the date you acquire the property or begin construction of that part of the building that would qualify as Covered Property.

##### b. Personal Property Off-premises

You may extend the insurance provided by this policy to apply to your Covered Property, other than "money" and "securities", "valuable papers and records" or accounts receivable, while it is in the course of transit or at a premises you do not own, lease or operate. The most we will pay for loss or damage under this Extension is \$10,000.

**c. Outdoor Property**

You may extend the insurance provided by this policy to apply to your outdoor fences, radio and television antennas (including satellite dishes), signs (other than signs attached to buildings), trees, shrubs and plants (other than trees, shrubs or plants which are part of a vegetated roof), including debris removal expense. Loss or damage must be caused by or result from any of the following causes of loss:

- (1) Fire;
- (2) Lightning;
- (3) Explosion;
- (4) Riot or Civil Commotion; or
- (5) Aircraft.

The most we will pay for loss or damage under this Extension is \$2,500, unless a higher Limit Of Insurance for Outdoor Property is shown in the Declarations, but not more than \$1,000 for any one tree, shrub or plant.

Subject to all aforementioned terms and limitations of coverage, this Coverage Extension includes the expense of removing from the described premises the debris of trees, shrubs and plants which are the property of others, except in the situation in which you are a tenant and such property is owned by the landlord of the described premises.

**d. Personal Effects**

You may extend the insurance that applies to Business Personal Property to apply to personal effects owned by you, your officers, your partners or "members", your "managers" or your employees, including temporary or leased employees. This extension does not apply to:

- (1) Tools or equipment used in your business; or
- (2) Loss or damage by theft.

The most we will pay for loss or damage under this Extension is \$2,500 at each described premises.

**e. Valuable Papers And Records**

- (1) You may extend the insurance that applies to Business Personal Property to apply to direct physical loss or damage to "valuable papers and records" that you own, or that are in your care, custody or control, caused by or resulting from a Covered Cause of Loss. This Coverage Extension includes the cost to research, replace or restore the lost information on "valuable papers and records" for which duplicates do not exist.

- (2) This Coverage Extension does not apply to:

- (a) Property held as samples or for delivery after sale; and
- (b) Property in storage away from the premises shown in the Declarations.

- (3) The most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$10,000, unless a higher Limit Of Insurance for "valuable papers and records" is shown in the Declarations.

For "valuable papers and records" not at the described premises, the most we will pay is \$5,000.

- (4) Loss or damage to "valuable papers and records" will be valued at the cost of restoration or replacement of the lost or damaged information. To the extent that the contents of the "valuable papers and records" are not restored, the "valuable papers and records" will be valued at the cost of replacement with blank materials of substantially identical type.

- (5) Paragraph B. Exclusions in Section I - Property does not apply to this Coverage Extension except for:

- (a) Paragraph B.1.c., Governmental Action;
- (b) Paragraph B.1.d., Nuclear Hazard;
- (c) Paragraph B.1.f., War And Military Action;



- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.2.m.(2), Errors Or Omissions; and
- (g) Paragraph B.3.

**f. Accounts Receivable**

- (1) You may extend the insurance that applies to Business Personal Property to apply to accounts receivable. We will pay:

- (a) All amounts due from your customers that you are unable to collect;
- (b) Interest charges on any loan required to offset amounts you are unable to collect pending our payment of these amounts;
- (c) Collection expenses in excess of your normal collection expenses that are made necessary by loss or damage; and
- (d) Other reasonable expenses that you incur to reestablish your records of accounts receivable;

that result from direct physical loss or damage by any Covered Cause of Loss to your records of accounts receivable.

- (2) The most we will pay under this Coverage Extension for loss or damage in any one occurrence at the described premises is \$10,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations.

For accounts receivable not at the described premises, the most we will pay is \$5,000.

- (3) Paragraph B. Exclusions in Section I - Property does not apply to this Coverage Extension except for:

- (a) Paragraph B.1.c., Governmental Action;
- (b) Paragraph B.1.d., Nuclear Hazard;
- (c) Paragraph B.1.f., War And Military Action;
- (d) Paragraph B.2.f., Dishonesty;
- (e) Paragraph B.2.g., False Pretense;
- (f) Paragraph B.3.; and
- (g) Paragraph B.6., Accounts Receivable Exclusion.

**g. Business Personal Property Temporarily In Portable Storage Units**

- (1) You may extend the insurance that applies to Business Personal Property to apply to such property while temporarily stored in a portable storage unit (including a detached trailer) located within 100 feet of the buildings or structures described in the Declarations or within 100 feet of the described premises, whichever distance is greater.

- (2) The limitation under Paragraph A.4.a.(5) also applies to property in a portable storage unit.

- (3) Coverage under this Extension:

- (a) Will end 90 days after the Business Personal Property has been placed in the storage unit;

- (b) Does not apply if the storage unit itself has been in use at the described premises for more than 90 consecutive days, even if the Business Personal Property has been stored there for 90 or fewer days as of the time of loss or damage.

- (4) Under this Extension, the most we will pay for the total of all loss or damage to Business Personal Property is \$10,000 (unless a higher limit is indicated in the Declarations for such Extension) regardless of the number of storage units.

- (5) This Extension does not apply to loss or damage otherwise covered under this Coverage Form or any endorsement to this Coverage Form, and does not apply to loss or damage to the storage unit itself.

**B. Exclusions**

1. We will not pay for loss or damage caused directly or indirectly by any of the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. These exclusions apply whether or not the loss event results in widespread damage or affects a substantial area.

**a. Ordinance Or Law**

- (1) The enforcement of or compliance with any ordinance or law:

- (a) Regulating the construction, use or repair of any property; or



(b) Requiring the tearing down of any property, including the cost of removing its debris.

(2) This exclusion, Ordinance Or Law, applies whether the loss results from:

(a) An ordinance or law that is enforced even if the property has not been damaged; or

(b) The increased costs incurred to comply with an ordinance or law in the course of construction, repair, renovation, remodeling or demolition of property or removal of its debris, following a physical loss to that property.

**b. Earth Movement**

(1) Earthquake, including tremors and aftershocks and any earth sinking, rising or shifting related to such event;

(2) Landslide, including any earth sinking, rising or shifting related to such event;

(3) Mine subsidence, meaning subsidence of a man-made mine, whether or not mining activity has ceased;

(4) Earth sinking (other than sinkhole collapse), rising or shifting including soil conditions which cause settling, cracking or other disarrangement of foundations or other parts of realty. Soil conditions include contraction, expansion, freezing, thawing, erosion, improperly compacted soil and the action of water under the ground surface.

But if Earth Movement, as described in Paragraphs (1) through (4) above, results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

(5) Volcanic eruption, explosion or effusion. But if volcanic eruption, explosion or effusion results in fire, building glass breakage or volcanic action, we will pay for the loss or damage caused by that fire, building glass breakage or volcanic action.

Volcanic action means direct loss or damage resulting from the eruption of a volcano when the loss or damage is caused by:

(a) Airborne volcanic blast or airborne shock waves;

(b) Ash, dust or particulate matter; or

(c) Lava flow.

With respect to coverage for volcanic action as set forth in 5(a), (5)(b) and 5(c), all volcanic eruptions that occur within any 168-hour period will constitute a single occurrence.

Volcanic action does not include the cost to remove ash, dust or particulate matter that does not cause direct physical loss of or damage to Covered Property.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused.

**c. Governmental Action**

Seizure or destruction of property by order of governmental authority.

But we will pay for loss or damage caused by or resulting from acts of destruction ordered by governmental authority and taken at the time of a fire to prevent its spread, if the fire would be covered under this policy.

**d. Nuclear Hazard**

Nuclear reaction or radiation, or radioactive contamination, however caused.

But if nuclear reaction or radiation, or radioactive contamination, results in fire, we will pay for the loss or damage caused by that fire.

**e. Utility Services**

The failure of power, communication, water or other utility service supplied to the described premises, however caused, if the failure:

(1) Originates away from the described premises; or

(2) Originates at the described premises, but only if such failure involves equipment used to supply the utility service to the described premises from a source away from the described premises.

Failure of any utility service includes lack of sufficient capacity and reduction in supply.

Loss or damage caused by a surge of power is also excluded, if the surge would not have occurred but for an event causing a failure of power.

But if the failure or surge of power, or the failure of communication, water or other utility service, results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

Communication services include but are not limited to service relating to Internet access or access to any electronic, cellular or satellite network.

This exclusion does not apply to loss or damage to "computer(s)" and "electronic data".

**f. War And Military Action**

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

**g. Water**

- (1) Flood, surface water, waves (including tidal wave and tsunami), tides, tidal water, overflow of any body of water, or spray from any of these, all whether or not driven by wind (including storm surge);
- (2) Mudslide or mudflow;
- (3) Water that backs up or overflows or is otherwise discharged from a sewer, drain, sump, sump pump or related equipment;
- (4) Water under the ground surface pressing on, or flowing or seeping through:
  - (a) Foundations, walls, floors or paved surfaces;
  - (b) Basements, whether paved or not; or
  - (c) Doors, windows or other openings; or
- (5) Waterborne material carried or otherwise moved by any of the water referred to in Paragraph (1), (3) or (4), or material carried or otherwise moved by mudslide or mudflow.

This exclusion applies regardless of whether any of the above, in Paragraphs (1) through (5), is caused by an act of nature or is otherwise caused. An example of a situation to which this exclusion applies is the situation where a dam, levee, seawall or other boundary or containment system fails in whole or in part, for any reason, to contain the water.

But if any of the above, in Paragraphs (1) through (5), results in fire, explosion or sprinkler leakage, we will pay for the loss or damage caused by that fire, explosion or sprinkler leakage.

**h. Certain Computer-related Losses**

- (1) The failure, malfunction or inadequacy of:

(a) Any of the following, whether belonging to any insured or to others:

(i) "Computer" hardware, including microprocessors or other electronic data processing equipment as may be described elsewhere in this policy;

(ii) "Computer" application software or other "electronic data" as may be described elsewhere in this policy;

(iii) "Computer" operating systems and related software;

(iv) "Computer" networks;

(v) Microprocessors ("computer" chips) not part of any "computer" system; or

(vi) Any other computerized or electronic equipment or components; or

(b) Any other products, and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph (a) above;

due to the inability to correctly recognize, distinguish, interpret or accept one or more dates or times. An example is the inability of computer software to recognize the year 2000.

- (2) Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph (1) above.

However, if excluded loss or damage, as described in Paragraph (1) above, results in a "specified cause of loss" under Section I — Property, we will pay only for the loss or damage caused by such "specified cause of loss".

We will not pay for repair, replacement or modification of any items in Paragraph (1)(a) or (1)(b) to correct any deficiencies or change any features.

**i. "Fungi", Wet Rot Or Dry Rot**

Presence, growth, proliferation, spread or any activity of "fungi", wet rot or dry rot.

But if "fungi", wet rot or dry rot results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

This exclusion does not apply:

- (1) When "fungi", wet rot or dry rot results from fire or lightning; or
- (2) To the extent that coverage is provided in the Limited Coverage For "Fungi", Wet Rot Or Dry Rot Additional Coverage, with respect to loss or damage by a cause of loss other than fire or lightning.

**j. Virus Or Bacteria**

- (1) Any virus, bacterium or other microorganism that induces or is capable of inducing physical distress, illness or disease.
- (2) However, the exclusion in Paragraph (1) does not apply to loss or damage caused by or resulting from "fungi", wet rot or dry rot. Such loss or damage is addressed in Exclusion i.
- (3) With respect to any loss or damage subject to the exclusion in Paragraph (1), such exclusion supersedes any exclusion relating to "pollutants".

2. We will not pay for loss or damage caused by or resulting from any of the following:

**a. Electrical Apparatus**

Artificially generated electrical, magnetic or electromagnetic energy that damages, disturbs, disrupts or otherwise interferes with any:

- (1) Electrical or electronic wire, device, appliance, system or network; or
- (2) Device, appliance, system or network utilizing cellular or satellite technology.

For the purpose of this exclusion, electrical, magnetic or electromagnetic energy includes but is not limited to:

- (1) Electrical current, including arcing;
- (2) Electrical charge produced or conducted by a magnetic or electromagnetic field;
- (3) Pulse of electromagnetic energy; or
- (4) Electromagnetic waves or microwaves.

But if fire results, we will pay for the loss or damage caused by fire.

We will pay for loss or damage to "computer(s)" due to artificially generated electrical, magnetic or electromagnetic energy if such loss or damage is caused by or results from:

- (1) An occurrence that took place within 100 feet of the described premises; or
- (2) Interruption of electric power supply, power surge, blackout or brownout if the cause of such occurrence took place within 100 feet of the described premises.

**b. Consequential Losses**

Delay, loss of use or loss of market.

**c. Smoke, Vapor, Gas**

Smoke, vapor or gas from agricultural smudging or industrial operations.



**d. Steam Apparatus**

Explosion of steam boilers, steam pipes, steam engines or steam turbines owned or leased by you, or operated under your control. But if explosion of steam boilers, steam pipes, steam engines or steam turbines results in fire or combustion explosion, we will pay for the loss or damage caused by that fire or combustion explosion. We will also pay for loss or damage caused by or resulting from the explosion of gases or fuel within the furnace of any fired vessel or within the flues or passages through which the gases of combustion pass.

**e. Frozen Plumbing**

Water, other liquids, powder or molten material that leaks or flows from plumbing, heating, air conditioning or other equipment (except fire protective systems) caused by or resulting from freezing, unless:

- (1) You do your best to maintain heat in the building or structure; or
- (2) You drain the equipment and shut off the supply if the heat is not maintained.

**f. Dishonesty**

Dishonest or criminal acts (including theft) by you, anyone else with an interest in the property, or any of your or their partners, "members", officers, "managers", employees (including temporary or leased employees), directors, trustees or authorized representatives, whether acting alone or in collusion with each other or with any other party; or theft by any person to whom you entrust the property for any purpose, whether acting alone or in collusion with any other party.

This exclusion:

- (1) Applies whether or not an act occurs during your normal hours of operation;
- (2) Does not apply to acts of destruction by your employees (including temporary or leased employees) or authorized representatives; but theft by your employees (including temporary or leased employees) or authorized representatives is not covered.

With respect to accounts receivable and "valuable papers and records", this exclusion does not apply to carriers for hire.

This exclusion does not apply to coverage that is provided under the Employee Dishonesty Optional Coverage.

**g. False Pretense**

Voluntary parting with any property by you or anyone else to whom you have entrusted the property if induced to do so by any fraudulent scheme, trick, device or false pretense.

**h. Exposed Property**

Rain, snow, ice or sleet to personal property in the open.

**i. Collapse**

(1) Collapse, including any of the following conditions of property or any part of the property:

- (a) An abrupt falling down or caving in;
- (b) Loss of structural integrity, including separation of parts of the property or property in danger of falling down or caving in; or
- (c) Any cracking, bulging, sagging, bending, leaning, settling, shrinkage or expansion as such condition relates to Paragraph i.(1)(a) or i.(1)(b).

But if collapse results in a Covered Cause of Loss at the described premises, we will pay for the loss or damage caused by that Covered Cause of Loss.

(2) This Exclusion i. does not apply:

- (a) To the extent that coverage is provided under the Additional Coverage - Collapse; or
- (b) To collapse caused by one or more of the following:
  - (i) The "specified causes of loss";
  - (ii) Breakage of building glass;
  - (iii) Weight of rain that collects on a roof; or
  - (iv) Weight of people or personal property.

**j. Pollution**

We will not pay for loss or damage caused by or resulting from the discharge, dispersal, seepage, migration, release or escape of "pollutants" unless the discharge, dispersal, seepage, migration, release or escape is itself caused by any of the "specified causes of loss". But if the discharge, dispersal, seepage, migration, release or escape of "pollutants" results in a "specified cause of loss", we will pay for the loss or damage caused by that "specified cause of loss".

**k. Neglect**

Neglect of an insured to use all reasonable means to save and preserve property from further damage at and after the time of loss.

**l. Other Types Of Loss**

- (1) Wear and tear;
- (2) Rust or other corrosion, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
- (3) Smog;
- (4) Settling, cracking, shrinking or expansion;
- (5) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals;
- (6) Mechanical breakdown, including rupture or bursting caused by centrifugal force.  
This exclusion does not apply with respect to the breakdown of "computer(s)";
- (7) The following causes of loss to personal property:
  - (a) Dampness or dryness of atmosphere;
  - (b) Changes in or extremes of temperature; or
  - (c) Marring or scratching.

But if an excluded cause of loss that is listed in Paragraphs (1) through (7) above results in a "specified cause of loss" or building glass breakage, we will pay for the loss or damage caused by that "specified cause of loss" or building glass breakage.

**m. Errors Or Omissions**

Errors or omissions in:

- (1) Programming, processing or storing data, as described under "electronic data" or in any "computer" operations; or
- (2) Processing or copying "valuable papers and records".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

**n. Installation, Testing, Repair**

Errors or deficiency in design, installation, testing, maintenance, modification or repair of your "computer" system including "electronic data".

However, we will pay for direct physical loss or damage caused by resulting fire or explosion if these causes of loss would be covered by this Coverage Form.

**o. Electrical Disturbance**

Electrical or magnetic injury, disturbance or erasure of "electronic data", except as provided for under the Additional Coverages of Section I – Property.

However, we will pay for direct loss or damage caused by lightning.

**p. Continuous Or Repeated Seepage Or Leakage Of Water**

Continuous or repeated seepage or leakage of water, or the presence or condensation of humidity, moisture or vapor, that occurs over a period of 14 days or more.

3. We will not pay for loss or damage caused by or resulting from any of the following Paragraphs a. through c. But if an excluded cause of loss that is listed in Paragraphs a. through c. results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**a. Weather Conditions**

Weather conditions. But this exclusion only applies if weather conditions contribute in any way with a cause or event excluded in Paragraph B.1. above to produce the loss or damage.

**b. Acts Or Decisions**

Acts or decisions, including the failure to act or decide, of any person, group, organization or governmental body.

**c. Negligent Work**

Faulty, inadequate or defective:

- (1) Planning, zoning, development, surveying, siting;
- (2) Design, specifications, workmanship, repair, construction, renovation, remodeling, grading, compaction;
- (3) Materials used in repair, construction, renovation or remodeling; or
- (4) Maintenance;  
of part or all of any property on or off the described premises.



**4. Additional Exclusion**

The following applies only to the property specified in this Additional Exclusion:

**Loss Or Damage To Products**

We will not pay for loss or damage to any merchandise, goods or other product caused by or resulting from error or omission by any person or entity (including those having possession under an arrangement where work or a portion of the work is outsourced) in any stage of the development, production or use of the product, including planning, testing, processing, packaging, installation, maintenance or repair. This exclusion applies to any effect that compromises the form, substance or quality of the product. But if such error or omission results in a Covered Cause of Loss, we will pay for the loss or damage caused by that Covered Cause of Loss.

**5. Business Income And Extra Expense Exclusions**

a. We will not pay for:

(1) Any Extra Expense, or increase of Business Income loss, caused by or resulting from:

(a) Delay in rebuilding, repairing or replacing the property or resuming "operations", due to interference at the location of the rebuilding, repair or replacement by strikers or other persons; or

(b) Suspension, lapse or cancellation of any license, lease or contract. But if the suspension, lapse or cancellation is directly caused by the suspension of "operations", we will cover such loss that affects your Business Income during the "period of restoration" and any extension of the "period of restoration" in accordance with the terms of the Extended Business Income Additional Coverage.

(2) Any other consequential loss.

b. With respect to this exclusion, suspension means:

(1) The partial slowdown or complete cessation of your business activities; and

(2) That a part or all of the described premises is rendered untenable, if coverage for Business Income applies.

**6. Accounts Receivable Exclusion**

The following additional exclusion applies to the Accounts Receivable Coverage Extension:

We will not pay for:

a. Loss or damage caused by or resulting from alteration, falsification, concealment or destruction of records of accounts receivable done to conceal the wrongful giving, taking or withholding of "money", "securities" or other property.

This exclusion applies only to the extent of the wrongful giving, taking or withholding.

b. Loss or damage caused by or resulting from bookkeeping, accounting or billing errors or omissions.

c. Any loss or damage that requires any audit of records or any inventory computation to prove its factual existence.

**C. Limits Of Insurance**

1. The most we will pay for loss or damage in any one occurrence is the applicable Limits Of Insurance of Section I – Property shown in the Declarations.

2. The most we will pay for loss of or damage to outdoor signs attached to buildings is \$1,000 per sign in any one occurrence.

3. The amounts of insurance applicable to the Coverage Extensions and the following Additional Coverages apply in accordance with the terms of such coverages and are in addition to the Limits of Insurance of Section I – Property:

a. Fire Department Service Charge;

b. Pollutant Clean-up And Removal;

c. Increased Cost Of Construction;

d. Business Income From Dependent Properties;

e. Electronic Data; and

f. Interruption Of Computer Operations.

**4. Building Limit – Automatic Increase**

a. In accordance with Paragraph C.4.b., the Limit of Insurance for Buildings will automatically increase by 8%, unless a different percentage of annual increase is shown in the Declarations.

b. The amount of increase is calculated as follows:

- (1) Multiply the Building limit that applied on the most recent of the policy inception date, the policy anniversary date or any other policy change amending the Building limit by:
  - (a) The percentage of annual increase shown in the Declarations, expressed as a decimal (example: 7% is .07); or
  - (b) .08, if no percentage of annual increase is shown in the Declarations; and
- (2) Multiply the number calculated in accordance with b.(1) by the number of days since the beginning of the current policy year, or the effective date of the most recent policy change amending the Building limit, divided by 365.

#### Example

If:

The applicable Building limit is \$100,000.  
The annual percentage increase is 8%. The number of days since the beginning of the policy year (or last policy change) is 146.

The amount of increase is

$$\$100,000 \times .08 \times 146 \div 365 = \$3,200.$$

#### 5. Business Personal Property Limit – Seasonal Increase

- a. Subject to Paragraph 5.b., the Limit of Insurance for Business Personal Property is automatically increased by:
  - (1) The Business Personal Property – Seasonal Increase percentage shown in the Declarations; or
  - (2) 25% if no Business Personal Property – Seasonal Increase percentage is shown in the Declarations;
 to provide for seasonal variances.
- b. The increase described in Paragraph 5.a. will apply only if the Limit Of Insurance shown for Business Personal Property in the Declarations is at least 100% of your average monthly values during the lesser of:
  - (1) The 12 months immediately preceding the date the loss or damage occurs; or
  - (2) The period of time you have been in business as of the date the loss or damage occurs.

#### D. Deductibles

1. We will not pay for loss or damage in any one occurrence until the amount of loss or damage exceeds the Deductible shown in the Declarations. We will then pay the amount of loss or damage in excess of the Deductible up to the applicable Limit of Insurance of Section I – Property.
2. Regardless of the amount of the Deductible, the most we will deduct from any loss or damage under all of the following Optional Coverages in any one occurrence is the Optional Coverage Deductible shown in the Declarations:
  - a. Money and Securities;
  - b. Employee Dishonesty;
  - c. Outdoor Signs; and
  - d. Forgery or Alteration.

But this Optional Coverage Deductible will not increase the Deductible shown in the Declarations. This Deductible will be used to satisfy the requirements of the Deductible in the Declarations.

3. No deductible applies to the following Additional Coverages:
  - a. Fire Department Service Charge;
  - b. Business Income;
  - c. Extra Expense;
  - d. Civil Authority; and
  - e. Fire Extinguisher Systems Recharge Expense.

#### E. Property Loss Conditions

##### 1. Abandonment

There can be no abandonment of any property to us.

##### 2. Appraisal

If we and you disagree on the amount of loss, either may make written demand for an appraisal of the loss. In this event, each party will select a competent and impartial appraiser. The two appraisers will select an umpire. If they cannot agree, either may request that selection be made by a judge of a court having jurisdiction. The appraisers will state separately the amount of loss. If they fail to agree, they will submit their differences to the umpire. A decision agreed to by any two will be binding. Each party will:

- a. Pay its chosen appraiser; and
- b. Bear the other expenses of the appraisal and umpire equally.

If there is an appraisal, we will still retain our right to deny the claim.

### 3. Duties In The Event Of Loss Or Damage

a. You must see that the following are done in the event of loss or damage to Covered Property:

- (1) Notify the police if a law may have been broken.
- (2) Give us prompt notice of the loss or damage. Include a description of the property involved.
- (3) As soon as possible, give us a description of how, when and where the loss or damage occurred.
- (4) Take all reasonable steps to protect the Covered Property from further damage, and keep a record of your expenses necessary to protect the Covered Property, for consideration in the settlement of the claim. This will not increase the Limits of Insurance of Section I – Property. However, we will not pay for any subsequent loss or damage resulting from a cause of loss that is not a Covered Cause of Loss. Also, if feasible, set the damaged property aside and in the best possible order for examination.
- (5) At our request, give us complete inventories of the damaged and undamaged property. Include quantities, costs, values and amount of loss claimed.
- (6) As often as may be reasonably required, permit us to inspect the property proving the loss or damage and examine your books and records.  
Also permit us to take samples of damaged and undamaged property for inspection, testing and analysis, and permit us to make copies from your books and records.
- (7) Send us a signed, sworn proof of loss containing the information we request to investigate the claim. You must do this within 60 days after our request. We will supply you with the necessary forms.
- (8) Cooperate with us in the investigation or settlement of the claim.
- (9) Resume all or part of your "operations" as quickly as possible.

- b. We may examine any insured under oath, while not in the presence of any other insured and at such times as may be reasonably required, about any matter relating to this insurance or the claim, including an insured's books and records. In the event of an examination, an insured's answers must be signed.

### 4. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date on which the direct physical loss or damage occurred.

### 5. Loss Payment

In the event of loss or damage covered by this policy:

a. At our option, we will either:

- (1) Pay the value of lost or damaged property;
- (2) Pay the cost of repairing or replacing the lost or damaged property;
- (3) Take all or any part of the property at an agreed or appraised value; or
- (4) Repair, rebuild or replace the property with other property of like kind and quality, subject to Paragraph d.(1)(e) below.

- b. We will give notice of our intentions within 30 days after we receive the sworn proof of loss.

c. We will not pay you more than your financial interest in the Covered Property.

d. Except as provided in Paragraphs (2) through (7) below, we will determine the value of Covered Property as follows:

- (1) At replacement cost without deduction for depreciation, subject to the following:

- (a) If, at the time of loss, the Limit of Insurance on the lost or damaged property is 80% or more of the full replacement cost of the property immediately before the loss, we will pay the cost to repair or replace, after application of the deductible and without deduction for depreciation, but not more than the least of the following amounts:

- (i) The Limit of Insurance under Section I – Property that applies to the lost or damaged property;



(ii) The cost to replace, on the same premises, the lost or damaged property with other property:

- i. Of comparable material and quality; and
- ii. Used for the same purpose; or

(iii) The amount that you actually spend that is necessary to repair or replace the lost or damaged property.

If a building is rebuilt at a new premises, the cost is limited to the cost which would have been incurred had the building been built at the original premises.

(b) If, at the time of loss, the Limit of Insurance applicable to the lost or damaged property is less than 80% of the full replacement cost of the property immediately before the loss, we will pay the greater of the following amounts, but not more than the Limit of Insurance that applies to the property:

- (i) The actual cash value of the lost or damaged property; or
- (ii) A proportion of the cost to repair or replace the lost or damaged property, after application of the deductible and without deduction for depreciation. This proportion will equal the ratio of the applicable Limit of Insurance to 80% of the full replacement cost of the property.

#### Example

The full replacement cost of property which suffers a total loss is \$100,000. The property is insured for \$70,000. 80% of the full replacement cost of the property immediately before the loss is \$80,000 (\$100,000 x .80 = \$80,000). A partial loss of \$25,000 is sustained. The amount of recovery is determined as follows:

Amount of recovery

$$\$70,000 \div \$80,000 = .875$$

$$.875 \times \$25,000 = \$21,875$$

(c) You may make a claim for loss or damage covered by this insurance on an actual cash value basis instead of on a replacement cost basis. In the event you elect to have loss or damage settled on an actual cash value basis, you may still make a claim on a replacement cost basis if you notify us of your intent to do so within 180 days after the loss or damage.

(d) We will not pay on a replacement cost basis for any loss or damage:

- (i) Until the lost or damaged property is actually repaired or replaced; and
- (ii) Unless the repair or replacement is made as soon as reasonably possible after the loss or damage.

However, if the cost to repair or replace the damaged building property is \$2,500 or less, we will settle the loss according to the provisions of Paragraphs d.(1)(a) and d.(1)(b) above whether or not the actual repair or replacement is complete.

(e) The cost to repair, rebuild or replace does not include the increased cost attributable to enforcement of or compliance with any ordinance or law regulating the construction, use or repair of any property.

(2) If the Actual Cash Value – Buildings option applies, as shown in the Declarations, Paragraph (1) above does not apply to Buildings. Instead, we will determine the value of Buildings at actual cash value.

(3) The following property at actual cash value:

- (a) Used or secondhand merchandise held in storage or for sale;
- (b) Property of others. However, if an item(s) of personal property of others is subject to a written contract which governs your liability for loss or damage to that item(s), then valuation of that item(s) will be based on the amount for which you are liable under such contract, but not to exceed the lesser of the replacement cost of the property or the applicable Limit of Insurance;

- (c) Household contents, except personal property in apartments or rooms furnished by you as landlord;
  - (d) Manuscripts; and
  - (e) Works of art, antiques or rare articles, including etchings, pictures, statuary, marble, bronzes, porcelain and bric-a-brac.
- (4) Glass at the cost of replacement with safety glazing material if required by law.
- (5) Tenants' improvements and betterments at:
- (a) Replacement cost if you make repairs promptly.
  - (b) A proportion of your original cost if you do not make repairs promptly. We will determine the proportionate value as follows:
    - (i) Multiply the original cost by the number of days from the loss or damage to the expiration of the lease; and
    - (ii) Divide the amount determined in (i) above by the number of days from the installation of improvements to the expiration of the lease.

If your lease contains a renewal option, the expiration of the renewal option period will replace the expiration of the lease in this procedure.
  - (c) Nothing if others pay for repairs or replacement.
- (6) Applicable only to the Optional Coverages:
- (a) "Money" at its face value; and
  - (b) "Securities" at their value at the close of business on the day the loss is discovered.
- (7) Applicable only to accounts receivable:
- (a) If you cannot accurately establish the amount of accounts receivable outstanding as of the time of loss or damage:
    - (i) We will determine the total of the average monthly amounts of accounts receivable for the 12 months immediately preceding the month in which the loss or damage occurs; and
    - (ii) We will adjust that total for any normal fluctuations in the amount of accounts receivable for the month in which the loss or damage occurred or for any demonstrated variance from the average for that month.
  - (b) The following will be deducted from the total amount of accounts receivable, however that amount is established:
    - (i) The amount of the accounts for which there is no loss or damage;
    - (ii) The amount of the accounts that you are able to reestablish or collect;
    - (iii) An amount to allow for probable bad debts that you are normally unable to collect; and
    - (iv) All unearned interest and service charges.
- e. Our payment for loss of or damage to personal property of others will only be for the account of the owners of the property. We may adjust losses with the owners of lost or damaged property if other than you. If we pay the owners, such payments will satisfy your claims against us for the owners' property. We will not pay the owners more than their financial interest in the Covered Property.
- f. We may elect to defend you against suits arising from claims of owners of property. We will do this at our expense.
- g. We will pay for covered loss or damage within 30 days after we receive the sworn proof of loss, provided you have complied with all of the terms of this policy, and:
- (1) We have reached agreement with you on the amount of loss; or
  - (2) An appraisal award has been made.



h. A party wall is a wall that separates and is common to adjoining buildings that are owned by different parties. In settling covered losses involving a party wall, we will pay a proportion of the loss to the party wall based on your interest in the wall in proportion to the interest of the owner of the adjoining building. However, if you elect to repair or replace your building and the owner of the adjoining building elects not to repair or replace that building, we will pay you the full value of the loss to the party wall, subject to all applicable policy provisions including Limits of Insurance and all other provisions of this Loss Payment Condition. Our payment under the provisions of this paragraph does not alter any right of subrogation we may have against any entity, including the owner or insurer of the adjoining building, and does not alter the terms of the Transfer Of Rights Of Recovery Against Others To Us Condition in this policy.

#### 6. Recovered Property

If either you or we recover any property after loss settlement, that party must give the other prompt notice. At your option, you may retain the property. But then you must return to us the amount we paid to you for the property. We will pay recovery expenses and the expenses to repair the recovered property, subject to the Limits of Insurance of Section I – Property.

#### 7. Resumption Of Operations

We will reduce the amount of your:

- a. Business Income loss, other than Extra Expense, to the extent you can resume your "operations", in whole or in part, by using damaged or undamaged property (including merchandise or stock) at the described premises or elsewhere.
- b. Extra Expense loss to the extent you can return "operations" to normal and discontinue such Extra Expense.

#### 8. Vacancy

##### a. Description Of Terms

- (1) As used in this Vacancy Condition, the term building and the term vacant have the meanings set forth in Paragraphs (a) and (b) below:
  - (a) When this policy is issued to a tenant, and with respect to that tenant's interest in Covered Property, building means the unit or suite rented or leased to the tenant. Such building is vacant when it does not contain enough business personal property to conduct customary operations.
  - (b) When this policy is issued to the owner or general lessee of a building, building means the entire building. Such building is vacant unless at least 31% of its total square footage is:
    - (i) Rented to a lessee or sublessee and used by the lessee or sublessee to conduct its customary operations; and/or
    - (ii) Used by the building owner to conduct customary operations.
- (2) Buildings under construction or renovation are not considered vacant.

##### b. Vacancy Provisions

If the building where loss or damage occurs has been vacant for more than 60 consecutive days before that loss or damage occurs:

- (1) We will not pay for any loss or damage caused by any of the following even if they are Covered Causes of Loss:
  - (a) Vandalism;
  - (b) Sprinkler leakage, unless you have protected the system against freezing;

- (c) Building glass breakage;
- (d) Water damage;
- (e) Theft; or
- (f) Attempted theft.

(2) With respect to Covered Causes of Loss other than those listed in Paragraphs (1)(a) through (1)(f) above, we will reduce the amount we would otherwise pay for the loss or damage by 15%.

## F. Property General Conditions

### 1. Control Of Property

Any act or neglect of any person other than you beyond your direction or control will not affect this insurance.

The breach of any condition of this Coverage Form at any one or more locations will not affect coverage at any location where, at the time of loss or damage, the breach of condition does not exist.

### 2. Mortgageholders

- a. The term "mortgageholder" includes trustee.
- b. We will pay for covered loss of or damage to buildings or structures to each mortgageholder shown in the Declarations in their order of precedence, as interests may appear.
- c. The mortgageholder has the right to receive loss payment even if the mortgageholder has started foreclosure or similar action on the building or structure.
- d. If we deny your claim because of your acts or because you have failed to comply with the terms of this policy, the mortgageholder will still have the right to receive loss payment if the mortgageholder:
  - (1) Pays any premium due under this policy at our request if you have failed to do so;
  - (2) Submits a signed, sworn proof of loss within 60 days after receiving notice from us of your failure to do so; and
  - (3) Has notified us of any change in ownership, occupancy or substantial change in risk known to the mortgageholder.

All of the terms of this policy will then apply directly to the mortgageholder.

e. If we pay the mortgageholder for any loss or damage and deny payment to you because of your acts or because you have failed to comply with the terms of this policy:

- (1) The mortgageholder's rights under the mortgage will be transferred to us to the extent of the amount we pay; and
- (2) The mortgageholder's right to recover the full amount of the mortgageholder's claim will not be impaired.

At our option, we may pay to the mortgageholder the whole principal on the mortgage plus any accrued interest. In this event, your mortgage and note will be transferred to us and you will pay your remaining mortgage debt to us.

f. If we cancel this policy, we will give written notice to the mortgageholder at least:

- (1) 10 days before the effective date of cancellation if we cancel for your nonpayment of premium; or
- (2) 30 days before the effective date of cancellation if we cancel for any other reason.

g. If we elect not to renew this policy, we will give written notice to the mortgageholder at least 10 days before the expiration date of this policy.

### 3. No Benefit To Bailee

No person or organization, other than you, having custody of Covered Property will benefit from this insurance.

### 4. Policy Period, Coverage Territory

Under Section I – Property:

a. We cover loss or damage commencing:

- (1) During the policy period shown in the Declarations; and
- (2) Within the coverage territory or, with respect to property in transit, while it is between points in the coverage territory.

b. The coverage territory is:

- (1) The United States of America (including its territories and possessions);
- (2) Puerto Rico; and
- (3) Canada.

**G. Optional Coverages**

If shown as applicable in the Declarations, the following Optional Coverages also apply. These coverages are subject to the terms and conditions applicable to property coverage in this policy, except as provided below:

**1. Outdoor Signs**

a. We will pay for direct physical loss of or damage to all outdoor signs at the described premises:

- (1) Owned by you; or
- (2) Owned by others but in your care, custody or control.

b. Paragraph A.3., Covered Causes Of Loss and Paragraph B., Exclusions in Section I – Property do not apply to this Optional Coverage, except for:

- (1) Paragraph B.1.c., Governmental Action;
- (2) Paragraph B.1.d., Nuclear Hazard; and
- (3) Paragraph B.1.f., War And Military Action.

c. We will not pay for loss or damage caused by or resulting from:

- (1) Wear and tear;
- (2) Hidden or latent defect;
- (3) Rust;
- (4) Corrosion; or
- (5) Mechanical breakdown.

d. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Outdoor Signs shown in the Declarations.

e. The provisions of this Optional Coverage supersede all other references to outdoor signs in this policy.

**2. Money And Securities**

a. We will pay for loss of "money" and "securities" used in your business while at a bank or savings institution, within your living quarters or the living quarters of your partners or any employee (including a temporary or leased employee) having use and custody of the property, at the described premises, or in transit between any of these places, resulting directly from:

- (1) Theft, meaning any act of stealing;
- (2) Disappearance; or
- (3) Destruction.

b. In addition to the Limitations and Exclusions applicable to Section I – Property, we will not pay for loss:

- (1) Resulting from accounting or arithmetical errors or omissions;
- (2) Due to the giving or surrendering of property in any exchange or purchase; or
- (3) Of property contained in any "money"-operated device unless the amount of "money" deposited in it is recorded by a continuous recording instrument in the device.

c. The most we will pay for loss in any one occurrence is:

(1) The limit shown in the Declarations for Inside the Premises for "money" and "securities" while:

- (a) In or on the described premises; or
- (b) Within a bank or savings institution; and

(2) The limit shown in the Declarations for Outside the Premises for "money" and "securities" while anywhere else.

d. All loss:

- (1) Caused by one or more persons; or
- (2) Involving a single act or series of related acts;

is considered one occurrence.

e. You must keep records of all "money" and "securities" so we can verify the amount of any loss or damage.

**3. Employee Dishonesty**

a. We will pay for direct loss of or damage to Business Personal Property and "money" and "securities" resulting from dishonest acts committed by any of your employees acting alone or in collusion with other persons (except you or your partner) with the manifest intent to:

- (1) Cause you to sustain loss or damage; and also
- (2) Obtain financial benefit (other than salaries, commissions, fees, bonuses, promotions, awards, profit sharing, pensions or other employee benefits earned in the normal course of employment) for:
  - (a) Any employee; or
  - (b) Any other person or organization.



**b. We will not pay for loss or damage:**

- (1) Resulting from any dishonest or criminal act that you or any of your partners or "members" commit whether acting alone or in collusion with other persons.
- (2) Resulting from any dishonest act committed by any of your employees (except as provided in Paragraph a.), "managers" or directors:
  - (a) Whether acting alone or in collusion with other persons; or
  - (b) While performing services for you or otherwise.
- (3) The only proof of which as to its existence or amount is:
  - (a) An inventory computation; or
  - (b) A profit and loss computation.
- (4) Caused by an employee if the employee had also committed theft or any other dishonest act prior to the effective date of this policy and you or any of your partners, "members", "managers", officers, directors or trustees, not in collusion with the employee, learned of that theft or dishonest act prior to the policy period shown in the Declarations.

**c. The most we will pay for loss or damage in any one occurrence is the Limit Of Insurance for Employee Dishonesty shown in the Declarations.****d. All loss or damage:**

- (1) Caused by one or more persons; or
- (2) Involving a single act or series of acts; is considered one occurrence.

**e. If any loss is covered:**

- (1) Partly by this insurance; and
- (2) Partly by any prior cancelled or terminated insurance that we or any affiliate had issued to you or any predecessor in interest;

the most we will pay is the larger of the amount recoverable under this insurance or the prior insurance.

We will pay only for loss or damage you sustain through acts committed or events occurring during the policy period. Regardless of the number of years this policy remains in force or the number of premiums paid, no Limit of Insurance cumulates from year to year or period to period.

**f. This Optional Coverage is cancelled as to any employee immediately upon discovery by:**

- (1) You; or
- (2) Any of your partners, "members", "managers", officers or directors not in collusion with the employee;

of any dishonest act committed by that employee before or after being hired by you.

**g. We will pay only for covered loss or damage sustained during the policy period and discovered no later than one year from the end of the policy period.****h. If you (or any predecessor in interest) sustained loss or damage during the policy period of any prior insurance that you could have recovered under that insurance except that the time within which to discover loss or damage had expired, we will pay for it under this Optional Coverage, provided:**

- (1) This Optional Coverage became effective at the time of cancellation or termination of the prior insurance; and
- (2) The loss or damage would have been covered by this Optional Coverage had it been in effect when the acts or events causing the loss or damage were committed or occurred.

**i. The insurance under Paragraph h. above is part of, not in addition to, the Limit of Insurance applying to this Optional Coverage and is limited to the lesser of the amount recoverable under:**

- (1) This Optional Coverage as of its effective date; or
- (2) The prior insurance had it remained in effect.

**j. With respect to the Employee Dishonesty Optional Coverage in Paragraph G.3., employee means:**

- (1) Any natural person:
  - (a) While in your service or for 30 days after termination of service;
  - (b) Who you compensate directly by salary, wages or commissions; and
  - (c) Who you have the right to direct and control while performing services for you;

(2) Any natural person who is furnished temporarily to you:

(a) To substitute for a permanent employee, as defined in Paragraph (1) above, who is on leave; or

(b) To meet seasonal or short-term workload conditions;

(3) Any natural person who is leased to you under a written agreement between you and a labor leasing firm, to perform duties related to the conduct of your business, but does not mean a temporary employee as defined in Paragraph (2) above;

(4) Any natural person who is a former employee, director, partner, member, manager, representative or trustee retained as a consultant while performing services for you; or

(5) Any natural person who is a guest student or intern pursuing studies or duties, excluding, however, any such person while having care and custody of property outside any building you occupy in conducting your business.

But employee does not mean:

(1) Any agent, broker, factor, commission merchant, consignee, independent contractor or representative of the same general character; or

(2) Any "manager", director or trustee except while performing acts coming within the usual duties of an employee.

#### 4. Equipment Breakdown Protection Coverage

a. We will pay for direct loss of or damage to Covered Property caused by or resulting from a mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment.

Mechanical breakdown or electrical failure to pressure, mechanical or electrical machinery and equipment does not mean any:

(1) Malfunction including but not limited to adjustment, alignment, calibration, cleaning or modification;

(2) Leakage at any valve, fitting, shaft seal, gland packing, joint or connection;

(3) Damage to any vacuum tube, gas tube, or brush; or

(4) The functioning of any safety or protective device.

b. Paragraphs A.4.a.(1) and A.4.a.(2), Limitations, do not apply to this Optional Coverage.

c. With respect to the coverage provided by this Optional Coverage, the following exclusions in Paragraph B. Exclusions do not apply:

(1) Paragraph B.2.a., Electrical Apparatus;

(2) Paragraph B.2.d., Steam Apparatus; and

(3) Paragraph B.2.i.(6), Mechanical Breakdown.

d. With respect to the coverage provided by this Optional Coverage, Paragraph G.1.c.(5) of the **Outdoor Signs Optional Coverage** does not apply.

e. If a dollar deductible is shown in the Declarations for this Optional Coverage, we will first subtract the applicable deductible amount from any loss we would otherwise pay. We will then pay the amount of loss in excess of the applicable deductible up to the applicable limit for this coverage.

If no optional deductible is chosen for this Optional Coverage, the Property Deductible shown in the Declarations applies.

f. With respect to Additional Coverages 5.f. Business Income and 5.g. Extra Expense, if the 72-hour time period in the definition of "period of restoration" (hereinafter referred to as time deductible) is amended for this Optional Coverage as shown in the Declarations, we will not pay for any Business Income loss that occurs during the consecutive number of hours shown as the time deductible in the Declarations immediately following a mechanical breakdown or electrical failure. If a time deductible is shown in days, each day shall mean 24 consecutive hours.

With respect to the coverage provided by this Optional Coverage, any time deductible shown in the Declarations for Equipment Breakdown Protection Coverage supersedes any time deductible otherwise applicable to the Business Income coverage provided by this policy.

g. With respect to the coverage provided by this Optional Coverage, Paragraph H. **Property Definitions** is amended as follows:

1. "Computer" means:

a. Programmable electronic equipment that is used to store, retrieve and process data; and



- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" includes those used to operate production-type machinery or equipment.

- h. Whenever any covered pressure, mechanical or electrical machinery and equipment is found to be in, or exposed to, a dangerous condition, any of our representatives may suspend coverage provided by this Optional Coverage for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment.

However, coverage provided by this Optional Coverage may be reinstated for loss from a mechanical breakdown or electrical failure to that pressure, mechanical or electrical machinery and equipment if the reasons for the suspension are found by any of our representatives to no longer exist.

We may suspend or reinstate this Optional coverage by mailing or delivering a written notification regarding the suspension or reinstatement to:

- (1) Your last known address; or
- (2) The address where the pressure, mechanical or electrical machinery and equipment is located.

This notification will indicate the effective date of the suspension or reinstatement.

If the coverage provided by this Optional Coverage is not reinstated, you will get a pro rata refund of premium. But the suspension will be effective even if we have not yet made or offered a refund.

#### H. Property Definitions

1. "Computer" means:

- a. Programmable electronic equipment that is used to store, retrieve and process data; and
- b. Associated peripheral equipment that provides communication, including input and output functions such as printing and auxiliary functions such as data transmission.

"Computer" does not include those used to operate production-type machinery or equipment.

2. "Counterfeit money" means an imitation of "money" that is intended to deceive and to be taken as genuine.

3. "Electronic data" means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a "computer" or device connected to it, which enable the "computer" or device to receive, process, store, retrieve or send data.

4. "Fungi" means any type or form of fungus, including mold or mildew, and any mycotoxins, spores, scents or by-products produced or released by fungi.

5. "Manager" means a person serving in a directorial capacity for a limited liability company.

6. "Member" means an owner of a limited liability company represented by its membership interest, who also may serve as a "manager".

7. "Money" means:

- a. Currency, coins and bank notes in current use and having a face value; and
- b. Traveler's checks, register checks and money orders held for sale to the public.

8. "Operations" means your business activities occurring at the described premises.

9. "Period of restoration":

- a. Means the period of time that:

- (1) Begins:

- (a) 72 hours after the time of direct physical loss or damage for Business Income Coverage; or
- (b) Immediately after the time of direct physical loss or damage for Extra Expense Coverage;

caused by or resulting from any Covered Cause of Loss at the described premises; and

**(2) Ends on the earlier of:**

(a) The date when the property at the described premises should be repaired, rebuilt or replaced with reasonable speed and similar quality; or

(b) The date when business is resumed at a new permanent location.

b. Does not include any increased period required due to the enforcement of or compliance with any ordinance or law that:

(1) Regulates the construction, use or repair, or requires the tearing down of any property; or

(2) Requires any insured or others to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants".

The expiration date of this policy will not cut short the "period of restoration".

10. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

11. "Securities" means negotiable and nonnegotiable instruments or contracts representing either "money" or other property and includes:

a. Tokens, tickets, revenue and other stamps (whether represented by actual stamps or unused value in a meter) in current use; and

b. Evidences of debt issued in connection with credit or charge cards, which cards are not issued by you;

but does not include "money".

12. "Specified causes of loss" means the following:

Fire; lightning; explosion; windstorm or hail; smoke; aircraft or vehicles; riot or civil commotion; vandalism; leakage from fire extinguishing equipment; sinkhole collapse; volcanic action; falling objects; weight of snow, ice or sleet; water damage.

a. Sinkhole collapse means the sudden sinking or collapse of land into underground empty spaces created by the action of water on limestone or dolomite. This cause of loss does not include:

(1) The cost of filling sinkholes; or

(2) Sinking or collapse of land into man-made underground cavities.

b. Falling objects does not include loss of or damage to:

(1) Personal property in the open; or

(2) The interior of a building or structure, or property inside a building or structure, unless the roof or an outside wall of the building or structure is first damaged by a falling object.

c. Water damage means:

(1) Accidental discharge or leakage of water or steam as the direct result of the breaking apart or cracking of any part of a system or appliance (other than a sump system including its related equipment and parts) containing water or steam; and

(2) Accidental discharge or leakage of water or waterborne material as the direct result of the breaking apart or cracking of a water or sewer pipe that is located off the described premises and is part of a municipal potable water supply system or municipal sanitary sewer system, if the breakage or cracking is caused by wear and tear.

But water damage does not include loss or damage otherwise excluded under the terms of the Water Exclusion. Therefore, for example, there is no coverage in the situation in which discharge or leakage of water results from the breaking apart or cracking of a pipe which was caused by or related to weather-induced flooding, even if wear and tear contributed to the breakage or cracking. As another example, and also in accordance with the terms of the Water Exclusion, there is no coverage for loss or damage caused by or related to weather-induced flooding which follows or is exacerbated by pipe breakage or cracking attributable to wear and tear.

To the extent that accidental discharge or leakage of water falls within the criteria set forth in c.(1) or c.(2) of this definition of "specified causes of loss", such water is not subject to the provisions of the Water Exclusion which preclude coverage for surface water or water under the ground surface.

13. "Stock" means merchandise held in storage or for sale; raw materials and in-process or finished goods, including supplies used in their packing or shipping.

14. "Valuable papers and records" means inscribed, printed or written:

- a. Documents;
- b. Manuscripts; and
- c. Records;

including abstracts, books, deeds, drawings, films, maps or mortgages.

But "valuable papers and records" does not mean "money" or "securities".

## SECTION II – LIABILITY

### A. Coverages

#### 1. Business Liability

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply. We may, at our discretion, investigate any "occurrence" or any offense and settle any claim or "suit" that may result. But:

- (1) The amount we will pay for damages is limited as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability; and
- (2) Our right and duty to defend end when we have used up the applicable Limit of Insurance in the payment of judgments or settlements or medical expenses.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Paragraph f. Coverage Extension – Supplementary Payments.

b. This insurance applies:

- (1) To "bodily injury" and "property damage" only if:
  - (a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";
  - (b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph C.1. Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known before the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" which occurs during the policy period and was not, prior to the policy period, known to have occurred by any insured listed under Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim, includes any continuation, change or resumption of "bodily injury" or "property damage" after the end of the policy period.

d. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph C.1. Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

- (1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;
- (2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or
- (3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

e. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".



**f. Coverage Extension – Supplementary Payments**

- (1) We will pay, with respect to any claim we investigate or settle, or any "suit" against an insured we defend:
  - (a) All expenses we incur.
  - (b) Up to \$250 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.
  - (c) The cost of bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.
  - (d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$250 a day because of time off from work.
  - (e) All court costs taxed against the insured in the "suit". However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
  - (f) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the Limit of Insurance, we will not pay any prejudgment interest based on that period of time after the offer.
  - (g) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within our Limit of Insurance.

These payments will not reduce the limit of liability.

- (2) If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

- (a) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";
- (b) This insurance applies to such liability assumed by the insured;
- (c) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";
- (d) The allegations in the information we know about the "occurrence" are such that it appears to exist in the interests of the insured and the interests of the indemnitee;
- (e) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we may assign the same control to defend the insured and the indemnitee;
- (f) The indemnitee:
  - (i) Agrees in writing to:
    - i. Cooperate with us in the investigation, settlement or defense of the "suit";
    - ii. Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";
    - iii. Notify any other insurer whose coverage is available to the indemnitee; and

iv. Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(ii) Provides us with written authorization to:

i. Obtain records and other information related to the "suit"; and

ii. Conduct and control the defense of the indemnitee in such "suit".

(3) So long as the conditions in Paragraph (2) are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments. Notwithstanding the provisions of Paragraph B.1.b.(2) Exclusions in Section II – Liability, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

(a) We have used up the applicable Limit of Insurance in the payment of judgments or settlements; or

(b) The conditions set forth above, or the terms of the agreement described in Paragraph (2)(f) above, are no longer met.

## 2. Medical Expenses

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(a) The accident takes place in the "coverage territory" and during the policy period;

(b) The expenses are incurred and reported to us within one year of the date of the accident; and

(c) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the Limits of Insurance of Section II – Liability. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, X-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

## B. Exclusions

### 1. Applicable To Business Liability Coverage

This insurance does not apply to:

#### a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.

#### b. Contractual Liability

"Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:

(1) That the insured would have in the absence of the contract or agreement; or

(2) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purposes of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage", provided:

(a) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract"; and



- (c) Such attorney fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

#### **For Liability**

"bodily injury" or "property damage" for which any insured may be held liable by reason of:

- (1) Causing or contributing to the intoxication of any person;
- (2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or
- (3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies even if the claims allege negligence or other wrongdoing in:

- (a) The supervision, hiring, employment, training or monitoring of others by an insured; or
- (b) Providing or failing to provide transportation with respect to any person that may be under the influence of alcohol;

if the "occurrence" which caused the "bodily injury" or "property damage", involved that which is described in Paragraph (1), (2) or (3) above.

However, this exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages. For the purposes of this exclusion, permitting a person to bring alcoholic beverages on your premises for consumption on your premises, whether or not a fee is charged or a license is required for such activity, is not by itself considered the business of selling, serving or furnishing alcoholic beverages.

#### **d. Workers' Compensation And Similar Laws**

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

#### **e. Employer's Liability**

"Bodily injury" to:

- (1) An "employee" of the insured arising out of and in the course of:
  - (a) Employment by the insured; or

- (b) Performing duties related to the conduct of the insured's business; or

- (2) The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph (1) above.

This exclusion applies whether the insured may be liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

#### **f. Pollution**

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

- (a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any insured. However, this subparagraph does not apply to:

- (i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

- (ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

- (iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

- (b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;
- (c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:
  - (i) Any insured; or
  - (ii) Any person or organization for whom you may be legally responsible;
- (d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:
  - (i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement or such claim or "suit" by or on behalf of a governmental authority.

#### g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

- (1) A watercraft while ashore on premises you own or rent;
- (2) A watercraft you do not own that is:
  - (a) Less than 51 feet long; and
  - (b) Not being used to carry persons or property for a charge;
- (3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (5) "Bodily injury" or "property damage" arising out of:
  - (a) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged; or
  - (b) The operation of any of the following machinery or equipment:
    - (i) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - (ii) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

#### h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

- (1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or
- (2) The use of "mobile equipment" in, or while in practice for, or while being prepared for, any prearranged racing, speed, demolition or stunting activity.

#### i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

- (1) War, including undeclared or civil war;
- (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
- (3) Insurrection, rebellion, revolution, usurped power, or action taken by government authority in hindering or defending against any of these.

#### j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" caused by the rendering or failure to render any professional service. This includes but is not limited to:

- (1) Legal, accounting or advertising services;
- (2) Preparing, approving, or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications;
- (3) Supervisory, inspection or engineering services;
- (4) Medical, surgical, dental, X-ray or nursing services treatment, advice or instruction;
- (5) Any health or therapeutic service treatment, advice or instruction;
- (6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;



(7) Optometry or optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Body piercing services; and

(9) Services in the practice of pharmacy.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering or failure to render of any professional service.

**k. Damage To Property**

"Property damage" to:

- (1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;
- (3) Property loaned to you;
- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the "property damage" arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Paragraph D. Liability And Medical Expenses Limits Of Insurance in Section II – Liability.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

**l. Damage To Your Product**

"Property damage" to "your product" arising out of it or any part of it.

**m. Damage To Your Work**

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

**n. Damage To Impaired Property Or Property Not Physically Injured**

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

- (1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or
- (2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

**o. Recall Of Products, Work Or Impaired Property**

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

- (1) "Your product";
- (2) "Your work"; or
- (3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

**p. Personal And Advertising Injury**

"Personal and advertising injury":

- (1) Caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict "personal and advertising injury";
- (2) Arising out of oral or written publication in any manner, of material, if done by or at the direction of the insured with knowledge of its falsity;
- (3) Arising out of oral or written publication, in any manner, of material whose first publication took place before the beginning of the policy period;
- (4) For which the insured has assumed liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement;
- (5) Arising out of a breach of contract, except an implied contract to use another's advertising idea in your "advertisement";
- (6) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";
- (7) Arising out of the wrong description of the price of goods, products or services stated in your "advertisement";
- (8) Committed by an insured whose business is:
  - (a) Advertising, broadcasting, publishing or telecasting;
  - (b) Designing or determining content of web sites for others; or
  - (c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs 14.a., b. and c. of "personal and advertising injury" under Paragraph F. Liability. And Medical Expenses Definitions.

For the purposes of this exclusion, the placing of frames, borders or links, or advertising, for you or others anywhere on the Internet, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

- (9) Arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time;
- (10) With respect to any loss, cost or expense arising out of any:
  - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
  - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants";
- (11) Arising out of an electronic chatroom or bulletin board the insured hosts, owns or over which the insured exercises control;
- (12) Arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights. Under this exclusion, such other intellectual property rights do not include the use of another's advertising idea in your "advertisement".  
However, this exclusion does not apply to infringement, in your "advertisement", of copyright, trade dress or slogan;
- (13) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers.

**q. Electronic Data**

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

However, this exclusion does not apply to liability for damages because of "bodily injury".



As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

**r. Criminal Acts**

"Personal and advertising injury" arising out of a criminal act committed by or at the direction of the insured.

**s. Recording And Distribution Of Material Or Information In Violation Of Law**

"Bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

- (1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;
- (2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law;
- (3) The Fair Credit Reporting Act (FCRA), and any amendment of or addition to such law, including the Fair and Accurate Credit Transaction Act (FACTA); or
- (4) Any federal, state or local statute, ordinance or regulation, other than the TCPA, CAN-SPAM Act of 2003 or FCRA and their amendments and additions, that addresses, prohibits, or limits the printing, dissemination, disposal, collecting, recording, sending, transmitting, communicating or distribution of material or information.

Exclusions c., d., e., f., g., h., i., k., l., m., n. and o. in Section II – Liability do not apply to damage by fire to premises while rented to you, or temporarily occupied by you with permission of the owner. A separate Damage To Premises Rented To You Limit of Insurance applies to this coverage as described in Paragraph D. Liability And Medical Expenses Limits of Insurance in Section II – Liability.

**2. Applicable To Medical Expenses Coverage**

We will not pay expenses for "bodily injury":

- a. To any insured, except "volunteer workers".
- b. To a person hired to do work for or on behalf of any insured or a tenant of any insured.
- c. To a person injured on that part of premises you own or rent that the person normally occupies.
- d. To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.
- e. To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.
- f. Included within the "products-completed operations hazard".
- g. Excluded under Business Liability Coverage.

**3. Applicable To Both Business Liability Coverage And Medical Expenses Coverage – Nuclear Energy Liability Exclusion**

This insurance does not apply:

- a. Under Business Liability Coverage, to "bodily injury" or "property damage":
  - (1) With respect to which an insured under the policy is also an insured under a nuclear energy liability policy issued by the Nuclear Energy Liability Insurance Association, Mutual Atomic Energy Liability Underwriters or Nuclear Insurance Association of Canada, or would be an insured under any such policy but for its termination upon exhaustion of its limit of liability; or

- (2) Resulting from the "hazardous properties" of "nuclear material" and with respect to which:
- (a) Any person or organization is required to maintain financial protection pursuant to the Atomic Energy Act of 1954, or any law amendatory thereof; or
  - (b) The insured is, or had this policy not been issued would be, entitled to indemnity from the United States of America, or any agency thereof, under any agreement entered into by the United States of America, or any agency thereof, with any person or organization.
- b. Under Medical Expenses Coverage, to expenses incurred with respect to "bodily injury" resulting from the "hazardous properties" of "nuclear material" and arising out of the operation of a "nuclear facility" by any person or organization.
- c. Under Business Liability Coverage, to "bodily injury" or "property damage" resulting from the "hazardous properties" of the "nuclear material"; if:
- (1) The "nuclear material":
    - (a) Is at any "nuclear facility" owned by, or operated by or on behalf of, an insured; or
    - (b) Has been discharged or dispersed therefrom;
  - (2) The "nuclear material" is contained in "spent fuel" or "waste" at any time possessed, handled, used, processed, stored, transported or disposed of by or on behalf of an insured; or
  - (3) The "bodily injury" or "property damage" arises out of the furnishing by an insured of services, materials, parts or equipment in connection with the planning, construction, maintenance, operation or use of any "nuclear facility", but if such facility is located within the United States of America, its territories or possessions or Canada, this Exclusion (3) applies only to "property damage" to such "nuclear facility" and any property thereat.
- d. As used in this exclusion:
- (1) "By-product material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;

- (2) "Hazardous properties" include radioactive, toxic or explosive properties;
- (3) "Nuclear facility" means:
  - (a) Any "nuclear reactor";
  - (b) Any equipment or device designed or used for:
    - (i) Separating the isotopes of uranium or plutonium;
    - (ii) Processing or utilizing "spent fuel"; or
    - (iii) Handling, processing or packaging "waste";
  - (c) Any equipment or device used for the processing, fabricating or alloying of "special nuclear material" if at any time the total amount of such material in the custody of the insured at the premises where such equipment or device is located consists of or contains more than 25 grams of plutonium or uranium 233 or any combination thereof, or more than 250 grams of uranium 235;
  - (d) Any structure, basin, excavation, premises or place prepared or used for the storage or disposal of "waste";
 and includes the site on which any of the foregoing is located, all operations conducted on such site and all premises used for such operations;
- (4) "Nuclear material" means "source material", "special nuclear material" or "by-product material";
- (5) "Nuclear reactor" means any apparatus designed or used to sustain nuclear fission in a self-supporting chain reaction or to contain a critical mass of fissionable material;
- (6) "Property damage" includes all forms of radioactive contamination of property;
- (7) "Source material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
- (8) "Special nuclear material" has the meaning given it in the Atomic Energy Act of 1954 or in any law amendatory thereof;
- (9) "Spent fuel" means any fuel element or fuel component, solid or liquid, which has been used or exposed to radiation in a "nuclear reactor";

(10) "Waste" means any waste material:

- (a) Containing "by-product material" other than the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its "source material" content; and
- (b) Resulting from the operation by any person or organization of any "nuclear facility" included under Paragraphs (a) and (b) of the definition of "nuclear facility"

### C. Who Is An Insured

1. If you are designated in the Declarations as:

- a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
- b. A partnership or joint venture, you are an insured. Your members, your partners and their spouses are also insureds, but only with respect to the conduct of your business.
- c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
- d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.
- e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" as a consequence of Paragraph (a) above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraph (a) or (b); or
- (d) Arising out of his or her providing or failing to provide professional health care services.

(2) "Property damage" to property:

- (a) Owned, occupied or used by;



- (b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by;

you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

- b. Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.
- c. Any person or organization having proper temporary custody of your property if you die, but only:
- (1) With respect to liability arising out of the maintenance or use of that property; and
  - (2) Until your legal representative has been appointed.
- d. Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this policy.

No person or organization is an Insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

#### **D. Liability And Medical Expenses Limits Of Insurance**

1. The Limits of Insurance of Section II – Liability shown in the Declarations and the rules below fix the most we will pay regardless of the number of:
  - a. Insureds;
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".
2. The most we will pay for the sum of all damages because of all:
  - a. "Bodily injury", "property damage" and medical expenses arising out of any one "occurrence"; and
  - b. "Personal and advertising injury" sustained by any one person or organization;

is the Liability and Medical Expenses limit shown in the Declarations. But the most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses limit shown in the Declarations.

3. The most we will pay under Business Liability Coverage for damages because of "property damage" to a premises while rented to you or in the case of fire while rented to you or temporarily occupied by you with permission of the owner is the applicable Damage To Premises Rented To You limit shown for that premises in the Declarations. For a premises temporarily occupied by you, the applicable limit will be the highest Damage To Premises Rented To You limit shown in the Declarations.

#### **4. Aggregate Limits**

The most we will pay for:

- a. All "bodily injury" and "property damage" that is included in the "products-completed operations hazard" is twice the Liability and Medical Expenses limit.
- b. All:
  - (1) "Bodily injury" and "property damage" except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard";
  - (2) Plus medical expenses;
  - (3) Plus all "personal and advertising injury" caused by offenses committed;
 is twice the Liability and Medical Expenses limit.

Subject to Paragraph a. or b. above, whichever applies, the Damage To Premises Rented To You limit is the most we will pay for damages because of "property damage" to any one premises, while rented to you, or in the case of fire, while rented to you or temporarily occupied by you with permission of the owner.

The Limits of Insurance of Section II – Liability apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

#### **E. Liability And Medical Expenses General Conditions**

##### **1. Bankruptcy**

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this policy.

## 2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1) How, when and where the "occurrence" or offense took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

## 3. Legal Action Against Us

No person or organization has a right under this policy:

- a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or
- b. To sue us on this policy unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this policy or that are in excess of the applicable Limit of Insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

## 4. Separation Of Insureds

Except with respect to the Limits of Insurance of Section II – Liability, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

- a. As if each Named Insured were the only Named Insured; and
- b. Separately to each insured against whom claim is made or "suit" is brought.

## F. Liability And Medical Expenses Definitions

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

2. "Auto" means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.

4. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;



b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. above; or

c. All other parts of the world if the injury or damage arises out of:

- (1) Goods or products made or sold by you in the territory described in Paragraph a. above;
- (2) The activities of a person whose home is in the territory described in Paragraph a. above, but is away for a short time on your business; or
- (3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a "suit" on the merits in the territory described in Paragraph a. above or in a settlement we agree to.

5. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

6. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document.

7. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

8. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

- a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or
- b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

- (1) The repair, replacement, adjustment or removal of "your product" or "your work"; or
- (2) Your fulfilling the terms of the contract or agreement.

9. "Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";

b. A sidetrack agreement;

c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement;

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

(1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;

(2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (a) Preparing, approving or failing to prepare or approve maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
- (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in Paragraph (2) above and supervisory, inspection or engineering services.

10. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

**11. "Loading or unloading" means the handling of property:**

- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";
- b. While it is in or on an aircraft, watercraft or "auto"; or
- c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

**12. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:**

- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
- b. Vehicles maintained for use solely on or next to premises you own or rent;
- c. Vehicles that travel on crawler treads;
- d. Vehicles, whether self-propelled or not, on which are permanently mounted:

- (1) Power cranes, shovels, loaders, diggers or drills; or
- (2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

- e. Vehicles not described in Paragraph a., b., c. or d. above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

- (1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

- (2) Cherry pickers and similar devices used to raise or lower workers;

- f. Vehicles not described in Paragraph a., b., c. or d. above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

**(1) Equipment designed primarily for:**

- (a) Snow removal;
- (b) Road maintenance, but not construction or resurfacing; or
- (c) Street cleaning;

**(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and**

**(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.**

However, "mobile equipment" does not include land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where they are licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law or motor vehicle registration law are considered "autos".

**13. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.**

**14. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:**

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication in any manner, of material that slanders, libels a person or organization or disparages a person or organization's goods, products or services;
- e. Oral or written publication, in any manner, of material that violates a person's right of privacy;

use of another's advertising idea in "advertisement" or

ing upon another's copyright, trade or slogan in your "advertisement".

"Pollutants" means any solid, liquid, gaseous or irritant or contaminant, including vapor, soot, fumes, acids, alkalis, and waste. Waste includes materials recycled, reconditioned or reclaimed.

"Products-completed operations hazard":

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at the job site has been put to its intended use by any other person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

17. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this insurance, electronic data is not tangible property.

As used in this definition, electronic data means information, facts or programs stored as, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

18. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage", or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

19. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

20. "Volunteer worker" means a person who is not your "employee", and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

21. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or



- (c) A person or organization whose business or assets you have acquired; and
  - (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and
    - (2) The providing of or failure to provide warnings or instructions.
  - c. Does not include vending machines or other property rented to or located for the use of others but not sold.
22. "Your work":
- a. Means:
    - (1) Work or operations performed by you or on your behalf; and
    - (2) Materials, parts or equipment furnished in connection with such work or operations.
  - b. Includes:
    - (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and
    - (2) The providing of or failure to provide warnings or instructions.

**SECTION III – COMMON POLICY CONDITIONS  
(APPLICABLE TO SECTION I – PROPERTY AND  
SECTION II – LIABILITY)**

**A. Cancellation**

- 1. The first Named Insured shown in the Declarations may cancel this policy by mailing or delivering to us advance written notice of cancellation.
- 2. We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:
  - a. Five days before the effective date of cancellation if any one of the following conditions exists at any building that is Covered Property in this policy:
    - (1) The building has been vacant or unoccupied 60 or more consecutive days. This does not apply to:
      - (a) Seasonal unoccupancy; or
      - (b) Buildings in the course of construction, renovation or addition.

Buildings with 65% or more of the rental units or floor area vacant or unoccupied are considered unoccupied under this provision.

- (2) After damage by a Covered Cause of Loss, permanent repairs to the building:
  - (a) Have not started; and
  - (b) Have not been contracted for; within 30 days of initial payment of loss.
- (3) The building has:
  - (a) An outstanding order to vacate;
  - (b) An outstanding demolition order; or
  - (c) Been declared unsafe by governmental authority.
- (4) Fixed and salvageable items have been or are being removed from the building and are not being replaced. This does not apply to such removal that is necessary or incidental to any renovation or remodeling.
- (5) Failure to:
  - (a) Furnish necessary heat, water, sewer service or electricity for 30 consecutive days or more, except during a period of seasonal unoccupancy; or
  - (b) Pay property taxes that are owing and have been outstanding for more than one year following the date due, except that this provision will not apply where you are in a bona fide dispute with the taxing authority regarding payment of such taxes.
- b. 10 days before the effective date of cancellation if we cancel for nonpayment of premium.
- c. 30 days before the effective date of cancellation if we cancel for any other reason.
- 3. We will mail or deliver our notice to the first Named Insured's last mailing address known to us.
- 4. Notice of cancellation will state the effective date of cancellation. The policy period will end on that date.
- 5. If this policy is cancelled, we will send the first Named Insured any premium refund due. If we cancel, the refund will be pro rata. If the first Named Insured cancels, the refund may be less than pro rata. The cancellation will be effective even if we have not made or offered a refund.



6. If notice is mailed, proof of mailing will be sufficient proof of notice.

**B. Changes**

This policy contains all the agreements between you and us concerning the insurance afforded. The first Named Insured shown in the Declarations is authorized to make changes in the terms of this policy with our consent. This policy's terms can be amended or waived only by endorsement issued by us and made a part of this policy.

**C. Concealment, Misrepresentation Or Fraud**

This policy is void in any case of fraud by you as it relates to this policy at any time. It is also void if you or any other insured, at any time, intentionally conceals or misrepresents a material fact concerning:

1. This policy;
2. The Covered Property;
3. Your interest in the Covered Property; or
4. A claim under this policy.

**D. Examination Of Your Books And Records**

We may examine and audit your books and records as they relate to this policy at any time during the policy period and up to three years afterward.

**E. Inspections And Surveys**

1. We have the right to:
  - a. Make inspections and surveys at any time;
  - b. Give you reports on the conditions we find; and
  - c. Recommend changes.
2. We are not obligated to make any inspections, surveys, reports or recommendations and any such actions we do undertake relate only to insurability and the premiums to be charged. We do not make safety inspections. We do not undertake to perform the duty of any person or organization to provide for the health or safety of workers or the public. And we do not warrant that conditions:
  - a. Are safe and healthful; or
  - b. Comply with laws, regulations, codes or standards.
3. Paragraphs 1. and 2. of this condition apply not only to us, but also to any rating, advisory, rate service or similar organization which makes insurance inspections, surveys, reports or recommendations.

4. Paragraph 2. of this condition does not apply to any inspections, surveys, reports or recommendations we may make relative to certification, under state or municipal statutes, ordinances or regulations, of boilers, pressure vessels or elevators.

**F. Insurance Under Two Or More Coverages**

If two or more of this policy's coverages apply to the same loss or damage, we will not pay more than the actual amount of the loss or damage.

**G. Liberalization**

If we adopt any revision that would broaden the coverage under this policy without additional premium within 45 days prior to or during the policy period, the broadened coverage will immediately apply to this policy.

**H. Other Insurance**

1. If there is other insurance covering the same loss or damage, we will pay only for the amount of covered loss or damage in excess of the amount due from that other insurance, whether you can collect on it or not. But we will not pay more than the applicable Limit of Insurance of Section I – Property.
2. Business Liability Coverage is excess over:
  - a. Any other insurance that insures for direct physical loss or damage; or
  - b. Any other primary insurance available to you covering liability for damages arising out of the premises or operations for which you have been added as an additional insured.
3. When this insurance is excess, we will have no duty under Business Liability Coverage to defend any claim or "suit" that any other insurer has a duty to defend. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

**I. Premiums**

1. The first Named Insured shown in the Declarations:
  - a. Is responsible for the payment of all premiums; and
  - b. Will be the payee for any return premiums we pay.
2. The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

3. With our consent, you may continue this policy in force by paying a continuation premium for each successive one-year period. The premium must be:

- a. Paid to us prior to the anniversary date; and
- b. Determined in accordance with Paragraph 2. above.

Our forms then in effect will apply. If you do not pay the continuation premium, this policy will expire on the first anniversary date that we have not received the premium.

4. Undeclared exposures or change in your business operation, acquisition or use of locations may occur during the policy period that are not shown in the Declarations. If so, we may require an additional premium. That premium will be determined in accordance with our rates and rules then in effect.

#### **J. Premium Audit**

- 1. This policy is subject to audit if a premium designated as an advance premium is shown in the Declarations. We will compute the final premium due when we determine your actual exposures.
- 2. Premium shown in this policy as advance premium is a deposit premium only. At the close of each audit period, we will compute the earned premium for that period and send notice to the first Named Insured. The due date for audit premiums is the date shown as the due date on the bill. If the sum of the advance and audit premiums paid for the policy period is greater than the earned premium, we will return the excess to the first Named Insured.
- 3. The first Named Insured must keep records of the information we need for premium computation and send us copies at such times as we may request.

#### **K. Transfer Of Rights Of Recovery Against Others To Us**

- 1. Applicable to Businessowners Property Coverage:

If any person or organization to or for whom we make payment under this policy has rights to recover damages from another, those rights are transferred to us to the extent of our payment. That person or organization must do everything necessary to secure our rights and must do nothing after loss to impair them. But you may waive your rights against another party in writing:

- a. Prior to a loss to your Covered Property.

- b. After a loss to your Covered Property only if, at time of loss, that party is one of the following:

- (1) Someone insured by this insurance;
- (2) A business firm:
  - (a) Owned or controlled by you; or
  - (b) That owns or controls you; or
- (3) Your tenant.

You may also accept the usual bills of lading or shipping receipts limiting the liability of carriers.

This will not restrict your insurance.

- 2. Applicable to Businessowners Liability Coverage:

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

#### **L. Transfer Of Your Rights And Duties Under This Policy**

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual Named Insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

POLICY NUMBER: 1ABPSC05127380102

BUSINESSOWNERS  
BP 01 21 06 23**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****SOUTH CAROLINA CHANGES**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

**SCHEDULE**

Premises Number:	Building Number:	Agreed Value Of Building	Total Amount Of Insurance To Be Carried
1	1		\$
2	1		\$

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section I – Property** is amended as follows:

- Paragraph **E.4. Legal Action Against Us** Condition is replaced by the following:

**4. Legal Action Against Us**

No one may bring a legal action against us under this insurance unless:

- There has been full compliance with all of the terms of this insurance; and
- The action is brought within three years after the date on which the physical loss or damage occurred.

- The following is added to Paragraph **E.5. Loss Payment** Property Loss Condition:

For loss or damage to buildings caused by or resulting from fire or lightning, you and we agree that:

- The value of buildings described in this Policy; and
- The total amount of insurance to be carried on the buildings, including this Policy;

are the amounts shown in the Schedule.

**B. Section III – Common Policy Conditions** is amended as follows:

- Except as otherwise provided in Paragraph **B.2.** of this endorsement, Paragraphs **2.** and **3.** of **A. Cancellation** are replaced by the following:

- We may cancel this Policy by mailing or delivering to the first Named Insured

and the agent, if any, written notice of cancellation at least:

- 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
- 30 days before the effective date of cancellation if we cancel for any other reason.

- We will mail or deliver our notice to the first Named Insured's and agent's last known addresses.

- The following change applies only if Flood Coverage **BP 10 79** is attached to this Policy and supersedes any provision to the contrary:

Paragraph **2.b.** of **A. Cancellation** is replaced by the following:

- 45 days before the effective date of cancellation if we cancel for any other reason permissible under applicable law.

- The following is added to Paragraph **A. Cancellation**:

**7. Cancellation Of Policies In Effect For 120 Days Or More**

If this Policy has been in effect for 120 days or more, or is a renewal or continuation of a policy we issued, we may cancel this Policy only for one or more of the following reasons:

- Nonpayment of premium;

**BUSINESSOWNERS**  
BP 05 01 07 02

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CALCULATION OF PREMIUM**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following is added:

The premium shown in the Declarations was computed based on rates in effect at the time the policy was issued. On each renewal, continuation, or anniversary of the effective date of this policy, we will compute the premium in accordance with our rates and rules then in effect.

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POLICY NUMBER: 1ABPSC05127380102

**BUSINESSOWNERS**  
**BP 05 24 01 15****THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****EXCLUSION OF CERTIFIED ACTS OF TERRORISM**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM****SCHEDULE**The **Exception Covering Certain Fire Losses** (Paragraph **B.2.**) applies to property located in the following state(s):

CA, GA, HI, IL, IA, MA, ME, MO, NJ, NY, NC, OR, RI, WA, WI, WV

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A.** The following provisions are added to the Businessowners Policy and apply to Property and Liability Coverages:

1. The following definition is added with respect to the provisions of this endorsement:

"Certified act of terrorism" means an act that is certified by the Secretary of the Treasury, in accordance with the provisions of the federal Terrorism Risk Insurance Act, to be an act of terrorism pursuant to such Act. The criteria contained in the Terrorism Risk Insurance Act for a "certified act of terrorism" include the following:

- a. The act resulted in insured losses in excess of \$5 million in the aggregate, attributable to all types of insurance subject to the Terrorism Risk Insurance Act; and
- b. The act is a violent act or an act that is dangerous to human life, property or infrastructure and is committed by an individual or individuals as part of an effort to coerce the civilian population of the United States or to influence the policy or affect the conduct of the United States Government by coercion.

2. The terms and limitations of any terrorism exclusion, or the inapplicability or omission of a terrorism exclusion, do not serve to create coverage for loss or injury or damage that is otherwise excluded under this Policy.

**B.** The following provisions are added to Businessowners Standard Property Coverage Form **BP 00 01**, Businessowners Special Property Coverage Form **BP 00 02** or **Section I – Property** of Businessowners Coverage Form **BP 00 03**:

1. The following exclusion is added:

**CERTIFIED ACT OF TERRORISM EXCLUSION**

We will not pay for loss or damage caused directly or indirectly by a "certified act of terrorism". Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

- b. Material misrepresentation of fact which, if known to us, would have caused us not to issue the Policy;
  - c. Substantial change in the risk assumed, except to the extent that:
    - (1) We had notice of the risk within the first 120 days of the policy period and this is not a renewal or continuation of a policy we issued; or
    - (2) We should reasonably have foreseen the change or contemplated the risk in writing the Policy;
  - d. Substantial breaches of contractual duties, conditions or warranties; or
  - e. Loss of our reinsurance covering all or a significant portion of the particular policy insured, or where continuation of the Policy would imperil our solvency or place us in violation of the insurance laws of South Carolina. Prior to cancellation for reasons permitted in this Item e., we will notify the Commissioner, in writing, at least 60 days prior to such cancellation and the Commissioner will, within 30 days of such notification, approve or disapprove such action.
- Any notice of cancellation will state the precise reason for cancellation.
4. The following is added and supersedes any provisions to the contrary:
- M. Nonrenewal**
- 1. We will not refuse to renew a policy issued for a term of more than one year, until expiration of its full term, if anniversary renewal has been

guaranteed by additional premium consideration.

- 2. If we decide not to renew this Policy, we will:
    - a. Mail or deliver written notice of nonrenewal to the first Named Insured and agent, if any, before:
      - (1) The expiration date of this Policy, if the Policy is written for a term of one year or less; or
      - (2) An anniversary date of this Policy, if the Policy is written for a term of more than one year or for an indefinite term; and
    - b. Provide at least 60 days' notice of nonrenewal.
  - 3. Any notice of nonrenewal will be mailed or delivered to the first Named Insured's and agent's last known addresses. If notice is mailed, proof of mailing will be sufficient proof of notice.
  - 4. Any notice of nonrenewal will state the precise reason for nonrenewal.
- C. The following changes apply only to Information Security Protection Endorsement BP 15 07 if it is attached to this Policy:**
- Paragraph d. of the definition of "loss" in Paragraph V. is replaced by the following:
- d. With respect to Insuring Agreements d. Security Breach Liability and g. Web Site Publishing Liability, "loss" means damages, settlement amounts and costs awarded pursuant to judgments. "Loss" does not include civil or criminal fines or penalties imposed by law, the multiplied portion of multiplied damages, taxes, royalties, the amount of any disgorged profits, or matters that are uninsurable pursuant to applicable law.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## WINDSTORM OR HAIL PERCENTAGE DEDUCTIBLE ENDORSEMENT SOUTH CAROLINA

This endorsement modifies insurance provided under the following:

### BUSINESSOWNERS COVERAGE FORM

### SCHEDULE

Premises Number	Building Number	Windstorm Or Hail Deductible Percentage (Enter 1% - 10%)	Windstorm or Hail Minimum Deductible Amount
1	1	2%	\$ 5,000
2	1	2%	\$ 5,000
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

The provisions of this endorsement apply to the coverage provided under **Section I – Property**.

**THIS POLICY CONTAINS A SEPARATE DEDUCTIBLE FOR WINDSTORM OR HAIL LOSSES, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU. THE ENCLOSED EXAMPLE ILLUSTRATES HOW THE DEDUCTIBLE MIGHT AFFECT YOU**

The Windstorm or Hail Deductible, as shown in the Schedule and set forth in this endorsement, applies to covered loss or damage caused directly or indirectly by Windstorm or Hail, subject to the Minimum Deductible Amount shown for all Covered Property at the premises shown in the Schedule, whichever is greater. This Deductible applies to each occurrence of Windstorm or Hail.

With respect to Covered Property at a premises identified in the Schedule, no other deductible applies to Windstorm or Hail.

Nothing in this endorsement implies or affords coverage for any loss or damage that is excluded under the terms of the Water Exclusion or any other exclusion in this policy. If this policy is endorsed to cover Flood under the Flood Coverage Endorsement (or if you have a flood insurance policy), a separate Flood Deductible applies to loss or damage attributable to Flood, in accordance with the terms of that endorsement or policy.

As used in this endorsement, the terms "specific insurance" and "blanket insurance" have the following meanings: Specific insurance covers each item of insurance (for example, each building or personal property in a building) under a separate Limit of Insurance. Blanket insurance covers two or more items of insurance (for example, a building and personal property in that building, or two buildings) under a single Limit of Insurance. Items of insurance and corresponding Limit(s) of Insurance are shown in the Declarations.

### WINDSTORM OR HAIL DEDUCTIBLE CALCULATION

#### A. All Policies

1. A percentage Deductible is calculated separately for, and applies separately to:

## 2. Exception Covering Certain Fire Losses

The following exception to the exclusion in Paragraph B.1. applies only if indicated and as indicated in the Schedule of this endorsement.

If a "certified act of terrorism" results in fire, we will pay for the loss or damage caused by that fire. Such coverage for fire applies only to direct loss or damage by fire to Covered Property. Therefore, for example, the coverage does not apply to insurance provided under Business Income and/or Extra Expense Additional Coverages.

If aggregate insured losses attributable to terrorist acts certified under the Terrorism Risk Insurance Act exceed \$100 billion in a calendar year and we have met our insurer deductible under the Terrorism Risk Insurance Act, we shall not be liable for the payment of any portion of the amount of such losses that exceeds \$100 billion, and in such case insured losses up to that amount are subject to pro rata allocation in accordance with procedures established by the Secretary of the Treasury.

C. The following provision is added to the Businessowners Liability Coverage Form BP 00 06 or Section II – Liability of the Businessowners Coverage Form BP 00 03:

### 1. The following exclusion is added:

This insurance does not apply to:

#### **TERRORISM**

"Any injury or damage" arising, directly or indirectly, out of a "certified act of terrorism".

### 2. The following definition is added:

For the purposes of this endorsement, "any injury or damage" means any injury or damage covered under any Coverage Form to which this endorsement is applicable, and includes but is not limited to "bodily injury", "property damage" or "personal and advertising injury" as may be defined in any applicable Coverage Form.



- a. Each building that sustains loss or damage;
- b. The personal property at each building at which there is loss or damage to personal property;
- c. Personal property in the open;

If there is damage to both a building and personal property in that building, separate deductibles apply to the building and to the personal property, subject to the Minimum Deductible Amount shown for all Covered Property at the premises shown in the Schedule, whichever is greater.

- 2. We will not pay for loss or damage until the amount of loss or damage exceeds the Deductible. We will then pay the amount of loss or damage in excess of the Deductible, up to the applicable Limit(s) of Insurance.
- 3. When property is covered under the Coverage Extension for Newly Acquired Property Or Constructed Property: In determining the amount, if any, that we will pay for loss or damage, we will deduct an amount equal to a percentage of the value(s) of the property at the time of loss. The applicable percentage for Newly Acquired Or Constructed Property is the highest percentage shown in the Schedule for any described premises.

## **B. Calculation Of The Deductible**

### **1. Specific Insurance**

In determining the amount, if any, that we will pay for loss or damage, we will deduct an amount equal to 1% through 10% (as shown in the Schedule) of the Limit(s) of Insurance applicable to the property that has sustained loss or damage.

### **2. Blanket Insurance**

In determining the amount, if any, that we will pay for loss or damage, we will deduct an amount equal to 1% through 10% (as shown in the Schedule) of the value(s) of the property that has sustained loss or damage. The value(s) to be used is that shown in the Declarations under Blanket Insurance.

## **EXAMPLES – APPLICATION OF DEDUCTIBLE**

### **EXAMPLE #1 – SPECIFIC INSURANCE**

The amount of loss to the damaged building is \$60,000.

The actual Limit of Insurance on the damaged building is \$100,000.

The Deductible is 1% subject to a minimum deductible of \$1,000.

Step (1):  $\$100,000 \times 1\% = \$1,000$

Step (2):  $\$60,000 - \$1,000 = \$59,000$

The most we will pay is \$59,000. That portion of the loss not covered due to application of the Deductible is \$1,000.

### **EXAMPLE #2 – SPECIFIC INSURANCE**

The amounts of loss to the damaged property are \$60,000 (building) and \$40,000 (personal property in building).

The actual Limits of Insurance on the damaged property are \$100,000 on the building and \$64,000 on the personal property.

The Deductible is 2%, subject to a minimum deductible of \$1,000.

#### **BUILDING**

Step (1):  $\$100,000 \times 2\% = \$2,000$

Step (2):  $\$60,000 - \$2,000 = \$58,000$

#### **PERSONAL PROPERTY**

Step (1):  $\$64,000 \times 2\% = \$1,280$

Step (2):  $\$40,000 - \$1,280 = \$38,720$

The most we will pay is \$96,720 (\$58,000 + \$38,720). The portion of the total loss that is not covered due to the application of the Deductible is \$3,280 (\$2,000 + \$1,280).

**EXAMPLE #3 – BLANKET INSURANCE**

The sum of the values of Building #1 (\$500,000), Building #2 (\$500,000) and Building #3 (\$1,000,000), as shown in the Declarations under Blanket Insurance, is \$2,000,000.

Buildings #1 and #2 have sustained damage; the amounts of loss to these buildings are \$40,000 (Building #1) and \$20,000 (Building #2).

The Deductible is 2%, subject to a minimum deductible of \$2,000.

**BUILDING #1**

Step (1):  $\$500,000 \times 2\% = \$10,000$

Step (2):  $\$40,000 - \$10,000 = \$30,000$

**BUILDING #2**

Step (1):  $\$500,000 \times 2\% = \$10,000$

Step (2):  $\$20,000 - \$10,000 = \$10,000$

The most we will pay is \$40,000. That portion of the total loss not covered due to application of the Deductible is \$20,000.

**EXAMPLE #4 – BLANKET INSURANCE**

The sum of the values of Building #1 (\$500,000), Building #2 (\$500,000), Personal Property at Building #1 (\$250,000) and Personal Property at Building #2 (\$250,000), as shown in the Declarations under Blanket Insurance, is \$1,500,000.

Building #1 and Personal Property at Building #1 have sustained damage; the amounts of loss are \$95,000 (Building) and \$5,000 (Personal Property).

The Deductible is 5% subject to a minimum deductible of \$5,000.

**BUILDING**

Step (1):  $\$500,000 \times 5\% = \$25,000$

Step (2):  $\$95,000 - \$25,000 = \$70,000$

**PERSONAL PROPERTY**

Step (1):  $\$250,000 \times 5\% = \$12,500$

The loss, \$5,000, does not exceed the Deductible.

The most we will pay is \$70,000. The remainder of the building loss, \$25,000, is not covered due to the application of the Deductible. There is no loss payment for the personal property.

All other terms and conditions of the policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION – LEAD**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to Paragraph **B. Exclusions** in Section **II – Liability**:

#### **Lead**

This insurance does not apply to

1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of, resulting from, caused by or related to the actual, alleged or threatened:
  - (a) Exposure to or existence of lead, paint containing lead, or any other material, product or substance containing lead; or
  - (b) Manufacture, distribution, sale, resale, re-branding, installation, repair, removal, encapsulation, abatement, replacement or handling of lead, paint containing lead, or any other material, product or substance containing lead,whether the lead is or was at any time airborne, ingested, inhaled, absorbed, transmitted in any fashion, or found in any form whatsoever, or whether any other cause, event, material, product or substance contributed concurrently or in any sequence to the injury or damage.
2. Any sums that any insured or other entity must pay, repay or reimburse because of any:
  - (a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, sample, monitor, clean up, remove, abate, cover, contain, treat, mitigate, or neutralize lead, paint containing lead, or any other material, product or substance containing lead, or in any way respond to, or assess the effects of lead in any form; or
  - (b) Claim or "suit" for damages relating to testing for, sampling, monitoring, cleaning up, neutralization, removing, abating, covering, containing, treating, mitigating, or neutralizing lead, paint containing lead, or any other material, product or substance containing lead or in any way responding to or assessing the effects of lead in any form.
3. Any other loss, cost or expense arising out of, caused by or relating in any way to lead.

All other terms and conditions of the policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **BUSINESSOWNERS ENHANCEMENT ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The provisions of the Businessowners Coverage Form apply except as otherwise provided in the endorsement. All numbers and letters used to designate paragraphs in this endorsement are specific to this endorsement only.

The following is a summary of increased limits of insurance and additional coverage provided by this endorsement. For complete details on specific coverage, refer to the appropriate provisions in this endorsement. Unless otherwise noted, if similar coverage is provided in this endorsement and is also provided in another coverage form or coverage endorsement attached to this policy, the coverage provided by this endorsement will apply first. Similar coverage provided elsewhere in the policy will apply after the limit in this endorsement has been exhausted. Unless otherwise stated in this Endorsement, the Coverage provided in this Endorsement is subject to the Deductible shown in the Businessowners Coverage Form Declarations, or \$500, whichever is less. However, if Flood, Earthquake, Earthquake Sprinkler Leakage, Windstorm or Hail, Hurricane and/or Difference in Conditions Coverage is provided, the deductible shown in the specific coverage declarations applies.

The titles and descriptions in the Coverage Schedule are intended solely for ease of reference and do not in any way limit, expand or otherwise affect the provisions of this endorsement.

### **BUSINESSOWNERS SCHEDULE OF COVERAGE CHANGES**

<b>COVERAGE</b>	<b>LIMIT OF INSURANCE</b>	<b>PAGE</b>
Building Glass	Included in Building Limit.	Page 3
Property Limitations – Theft	Furs, fur garments and garments trimmed in fur - \$5,000. Jewelry, watches, jewels, pearls, precious and semi-precious stones, gold, silver, bullion - \$5,000. Patterns, dies, molds and forms - \$10,000	Page 3
Fire Department Service Charge	Up to \$25,000 unless a higher limit is shown in the Declarations. Waive Deductible	Page 3
Civil Authority: Business Income  Necessary Extra Expense	Actual loss of Business Income due to civil action that prevents access to business area for six consecutive weeks; or when the coverage ends. Coverage begins 48 hours after the time of the first action.  Coverage for necessary extra expense begins immediately after the time of the first action that prohibits access and ends six consecutive weeks after the date of that action; or when coverage for Business Income ends.	Page 4
Money Orders and "Counterfeit Money"	\$10,000	Page 4

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COVERAGE	LIMIT OF INSURANCE	PAGE
Forgery or Alteration	\$10,000, unless a higher Limit of Insurance is shown in the Declarations.	Page 4
Business Income from Dependent Properties	\$10,000	Page 4
Fire Extinguisher Systems Recharge Expense	\$25,000	Page 4
Electronic Data	\$25,000 Aggregate per Policy Year unless higher Limit of Insurance is shown in the Declarations.	Page 4
Fire/Theft Reward	Lesser of \$10,000; or the dollar amount of the covered fire or theft loss. (This coverage is not applicable in New York)	Page 5
Water Back-up and Sump Overflow	\$15,000 on an aggregate annual limit basis, regardless of the number of locations or losses.	Page 5
Fine Arts Coverage	\$10,000 for any one loss at each described premises.	Page 5
Newly Acquired or Constructed Property	Buildings: \$300,000 at each building; Building Personal Property: \$250,000 at each building.	Page 6
Personal Property Off-Premises	\$15,000	Page 6
Outdoor Property	\$10,000 unless a higher limit for Outdoor Property is shown in the Declarations, but not more than \$2,500 for any one tree, shrub or plant.	Page 6
Personal Effects	\$10,000 at each Described Premises.	Page 6
Valuable Papers and Records	\$25,000 in any one occurrence at the described premises, unless a higher Limit of Insurance is shown in the Declarations. \$5,000 for a loss not at the described premises.	Page 6
Accounts Receivable	\$25,000 in any one occurrence at the described premises, unless a higher Limit of Insurance is shown in the Declarations. \$5,000 for a loss not at the described premises.	Page 6
Appurtenant Structures	\$50,000 for loss or damage in any one occurrence for any combination of loss or damage to Building and Business Personal Property.	Page 6

COVERAGE	LIMIT OF INSURANCE	PAGE
Outdoor Signs	\$25,000 in any one occurrence unless a higher Limit of Insurance for Outdoor Signs is shown in the Declarations.	Page 7
Money and Securities	\$10,000 Inside the Premises for "money" and "securities"; \$10,000 Outside the Premises for "money" and "securities" while anywhere else.	Page 7
Employee Dishonesty	\$10,000 unless a higher Limit of Insurance is shown in the Declarations.	Page 7
Property Definition - "Period of restoration"	Paragraph a.(1)(a) is replaced as follows: (a) 48 hours after the time of direct physical loss or damage for Business Income Coverage;	Page 7
Section II - 1. Business Liability - f. Coverage Extension Supplementary Payments	\$1,000 for the cost of bail bonds required because of accidents or traffic law violations; the cost of appeal bonds or bonds to release attachments, but only within limits of insurance; reasonable expenses incurred to assist in the investigation of the claim, including loss of earnings up to \$500 per day for time away from work. (Not applicable in New York)	Page 7

**I. SECTION I – PROPERTY** is amended as follows:

**A. Building Glass Coverage**

The following Building Glass Coverage is added to Section A. Coverage, 1. Covered Property:

We will pay for direct physical loss of or damage to glass that is part of a building or structure at the described premises owned by you. The amount we will pay for this additional coverage is included in the applicable Building Limit as set forth in Section C. Limits of Insurance of the policy. This coverage is in addition to Glass Expenses coverage provided under paragraph n. Additional Coverages.

**B. Loss or Damage by Theft**

The following change is made to item c. in Section A. Coverage, 4. Limitations

For loss or damage by theft, the applicable limits shown below apply, unless a higher Limit of Insurance is shown in the Declarations:

- (1) \$5,000 for furs, fur garments and garments trimmed with fur.
- (2) \$5,000 for jewelry, watches, watch movements, jewels, pearls, precious and semiprecious stones, bullion, gold, silver, platinum and other precious alloys or metals.
- (3) \$10,000 for patterns, dies, molds and forms.

**C. Enhancements to Existing Additional Coverages**

The following changes are made to Section A. Coverage, 5. Additional Coverages:

**1. Fire Department Service Charge**

Paragraph c. Fire Department Service Charge is amended to provide that we will pay up to a limit of \$25,000, and that no deductible applies to this Additional Coverage.

**2. Civil Authority**

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Paragraph **i. Civil Authority** is amended to provide that the beginning and end of such coverage will be:

- a. Civil Authority Coverage for Business Income will begin 48 hours after the time of the first action of civil authority that prohibits access to the decreased premises and will apply for a period of six consecutive weeks from the date on which such coverage began.
- b. Civil Authority Coverage for Extra Expense will begin immediately after the time of the first action of civil authority that prohibits access to the described premises and will apply for a period of six consecutive weeks from the date on which such coverage began; or when your Civil Authority Coverage for Business Income ends, whichever is later.

### 3. Money Orders and "Counterfeit Money"

Paragraph **j. Money Orders and "Counterfeit Money"** is amended to provide that the most we will pay for any loss under this Additional Coverage is \$10,000.

### 4. Forgery or Alteration

Paragraph **k. Forgery or Alteration**, Subparagraph (4) only is amended to provide that the most we will pay for any loss, including legal expenses, under this Additional Coverage is \$10,000, unless a higher Limit of Insurance is shown in the Declarations.

### 5. Business Income from Dependent Properties

Paragraph **m. Business Income from Dependent Properties**, Subparagraph (1) only is amended to provide that the most we will pay under this Additional Coverage is \$10,000 unless a higher Limit of Insurance is shown in the Declarations.

### 6. Fire Extinguisher Systems Recharge Expense

Paragraph **o. Fire Extinguisher Systems Recharge Expense** is amended to provide that:

- a. The maximum distance from the described premises within which we will pay for the cost of recharging or replacing, whichever is less, your fire extinguishers and fire extinguishing systems (including hydrostatic testing if needed) if they are discharged is increased to 1,000 feet; and
- b. The most we will pay under this Additional Coverage is \$25,000 in any one occurrence.

### 7. Electronic Data

Paragraph **p. Electronic Data** Subparagraph (3) only is amended to provide that the most we will pay under this Additional Coverage - Electronic Data, for all loss or damage sustained in any one policy year, regardless of the number of occurrences of loss or damage or the number of premises, locations or computer systems involved is \$25,000, unless a higher Limit of Insurance is shown in the Declarations. This increased limit remains subject to the requirement that if loss payment on the first occurrence does not exhaust this amount, then the balance is available for subsequent loss or damage sustained in, but not after, that policy year. With respect to an occurrence which begins in one policy year and continues or results in additional loss or damage in a subsequent policy year(s), all loss or damage is deemed to be sustained in the policy year in which the occurrence began.

## D. New Additional Coverages

The following coverages are added to Section **A. Coverage, 5. Additional Coverages**:

### 1. Fire/Theft Reward (This coverage does not apply in New York)

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a. We will pay for a reward for information leading to a felony conviction in connection with an occurrence that results in a fire or theft loss covered by this policy up to the lesser of \$10,000 or the dollar amount of the covered fire or theft loss.

b. The limit for this reward applies regardless of the number of persons providing that information. For the purposes of this Additional Coverage, an occurrence means a single act or series of acts caused by one or more persons resulting in a covered fire or theft loss. This reward is not available to any person responsible in any way for the fire or theft loss or to the Named Insured.

No deductible applies to this Additional Coverage.

## **2. Water Back-up and Sump Overflow**

We will pay for direct physical loss or damage to Covered Property covered under **SECTION I – PROPERTY** caused by or resulting from:

a. Water or waterborne material which backs up through or overflows or is otherwise discharged from a sewer or drain; or

b. Water or waterborne material which overflows or is otherwise discharged from a sump, sump pump or related equipment, even if the overflow or discharge results from mechanical breakdown of a sump pump or its related equipment in the event of mechanical breakdown.

The most we will pay for the coverage provided under this Additional Coverage is \$15,000 on an annual aggregate limit, regardless of the number of locations or losses.

If a Water Back-up and Sump Overflow scheduled endorsement is added to the policy this coverage will not apply.

## **3. Fine Art Coverage**

a. We will pay for direct loss or damage to Fine Art whether owned by you or others, and in your care, custody or control.

b. Fine Art includes, but is not limited to, antiquities, paintings, etchings, drawings, tapestries, sculptures and fragile property such as porcelains, china and marble.

c. The most we will pay for loss in any one occurrence under this Additional Coverage is \$10,000 at each described premises. Our payment for loss or damage to personal property of others will only be for the amount of the owner of the property. The amount payable under this Additional Coverage is additional insurance over the insurance available for Business Personal Property.

d. The value of Fine Art will be the least of the following amounts:

(1) The actual cash value of that property;

(2) The cost of reasonably restoring that property to its condition immediately before the loss; or,

(3) The cost of replacing that property with substantially identical property.

e. In the event of loss, the value of property will be determined as of the time of loss.

## **E. Enhancements to Existing Coverage Extensions**

The following changes are made to Section A. Coverage, 6. Coverage Extensions:

### **1. Newly Acquired or Constructed Property**

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- a. The most we will pay for loss or damage to Buildings under Subparagraph (1) of this Coverage Extension is \$300,000 at each building.
- b. The most we will pay for loss or damage to Business Personal Property under Subparagraph (2) of this Coverage Extension is \$250,000 at each building.
- c. The expiration date in Subparagraph (3)(b) is increased from 30 days to 60 days.

## **2. Personal Property Off-Premises**

Paragraph b. **Personal Property Off-Premises** is amended to provide that the most we will pay for loss or damage under this Coverage Extension is \$15,000.

## **3. Outdoor Property**

Paragraph c. **Outdoor Property** is amended to provide that the most we will pay for loss or damage under this Coverage Extension is \$10,000 unless a higher limit for Outdoor Property is shown in the Declarations, but not more than \$2,500 for any one tree, shrub or plant.

## **4. Personal Effects**

Paragraph d. **Personal Effects** is amended to provide that the most we will pay for the loss or damage under this Coverage Extension is \$10,000 at each described premises.

## **5. Valuable Papers and Records**

Paragraph e. **Valuable Papers and Records**, Subparagraph (3) only, is amended to provide that the most we will pay under this Coverage Extension for loss or damage to "valuable papers and records" in any one occurrence at the described premises is \$25,000, unless a higher Limit of Insurance for "valuable papers and records" is shown in the Declarations. For "valuable papers and records" not at the described premises, the most we will pay is \$5,000.

## **6. Accounts Receivable**

Paragraph f. **Accounts Receivable**, Subparagraph (2) only, is amended to provide that the most we will pay under the Coverage Extension for loss or damage in any one occurrence at the described premises is \$25,000, unless a higher Limit of Insurance for accounts receivable is shown in the Declarations. For accounts receivable not at the described premises, the most we will pay is \$5,000.

## **F. Coverage Extension – Appurtenant Structures**

The following coverage is added to Section A. Coverage, 6: Coverage Extensions:

### **Appurtenant Structures**

1. When there is a Building Limit of Insurance shown in the Declarations, you may extend the insurance provided by this policy for the described premises to apply to direct physical loss or damage caused by or resulting from a Covered Cause of Loss to Incidental Appurtenant Structures within 1,000 feet of the described premises.
2. When there is a Business Personal Property Limit of Insurance shown in the Declarations at the described premises, you may extend the insurance provided by this policy to apply to direct physical loss or damage caused by or resulting from a Covered Cause of Loss to Business Personal Property within Incidental Appurtenant Structures within 1,000 feet of the described premises.
3. Incidental Appurtenant Structures include storage buildings, carports, garages and similar structures which have not been specifically described in the Declarations. The most we will pay for loss or damage under this Coverage Extension in any one occurrence for any combination of loss or damage to Building and Business Personal Property is \$50,000.

## **G. Limits of Insurance – Outdoor Signs**

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The following change is made to Section **C. Limits of Insurance**:

Paragraph **2.** Is amended to provide that the most we will pay for loss or damage to outdoor signs, whether or not the sign is attached to a building, is \$25,000 per sign in any one occurrence.

#### **H. Enhancement to Optional Coverages**

The following changes are made to Section **G. Optional Coverages**:

##### **1. Outdoor Signs**

Paragraph **d.** of **1. Outdoor Signs** is amended to provide that the most we will pay for loss or damage in any one occurrence is \$25,000, unless a higher Limit of Insurance for Outdoor Signs is shown in the Declarations.

##### **2. Money and Securities**

Paragraph **c. (1) and c. (2)** of **2. Money and Securities** is amended to provide that the most we will pay for loss or damage in any one occurrence is \$10,000, unless a higher Limit of Insurance is shown in the Declarations.

##### **3. Employee Dishonesty**

Paragraph **c.** of **3. Employee Dishonesty** is amended to provide that most we will pay for loss or damage in any one occurrence is \$10,000, unless a higher Limit of Insurance for Employee Dishonesty is shown in the Declarations.

#### **I. Property Definitions**

Section **H. Property Definitions**, Subparagraph **a. (1)(a)** of Definition **9**, "Period of restoration" is deleted and replaced with by the following:

(a) 48 hours after the time of direct physical loss or damage for Business Income Coverage; or

#### **II. SECTION II – LIABILITY** is amended as follows:

**A.** The following change is made to Section **A. Coverages**. (Not applicable in New York)

Paragraph **(1)**, sections **(b)**, **(c)** and **(d)** of Subparagraph **f. Coverage Extension Supplementary Payments** of Paragraph **1. Business Liability**, are deleted and replaced by the following:

(b) Up to \$1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(c) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within our Limit of Insurance. We do not have to furnish these bonds.

(d) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 per day because of time off from work.

All other terms and conditions of the policy remain unchanged.

BUSINESSOWNERS

BP 04 17 01 10

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EMPLOYMENT-RELATED PRACTICES EXCLUSION**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to Paragraph B.1.  
**Exclusions – Applicable To Business Liability Coverage in Section II – Liability:**

This insurance does not apply to "bodily injury" or "personal and advertising injury" to:

- (1) A person arising out of any:
  - (a) Refusal to employ that person;
  - (b) Termination of that person's employment; or
  - (c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or malicious prosecution directed at that person; or

- (2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to that person at whom any of the employment-related practices described in Paragraph (a), (b) or (c) above is directed.

This exclusion applies:

- (1) Whether the injury-causing event described in Paragraph (a), (b) or (c) above occurs before employment, during employment or after employment of that person;
- (2) Whether the insured may be liable as an employer or in any other capacity; and
- (3) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## PROTECTIVE SAFEGUARDS ENDORSEMENT

This endorsement modifies insurance provided under the following:

### BUSINESSOWNERS COVERAGE FORM

#### SCHEDULE

Premises Number	Building Number	Protective Safeguards Symbols Applicable	Description Of "P-9" If Applicable:
1	1	P6 Central Station Burglar Alarm System	
2	1	P6 Central Station Burglar Alarm System	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.			

The following is added to **Section I – Property Paragraph F. Property General Conditions**

- A.** As a condition of this insurance, you are required to maintain the protective devices or services listed in the Schedule above.
- B.** The protective safeguards to which this endorsement applies are identified by the following symbols:
1. "P-1" Automatic Sprinkler System, including related supervisory services.  
Automatic Sprinkler System means:
    - a. Any automatic fire protective or extinguishing system, including connected:
      - i. Sprinklers and discharge nozzles;
      - ii. Ducts, pipes, valves and fittings;
      - iii. Tanks, their component parts and supports; and
      - iv. Pumps and private fire protection mains.
    - b. When supplied from an automatic fire protective system:
      - i. Nonautomatic fire protective systems; and
      - ii. Hydrants, standpipes and outlets.
  2. "P-2" Automatic Fire Alarm, protecting the entire building, that is:
    - a. Connected to a central station; or
    - b. Reporting to a public or private fire alarm station.
  3. "P-3" Security Service, with a recording system or watch clock, making hourly rounds covering the entire building; when the premises are not in actual operation.
  4. "P-4" Service Contract, with a privately owned fire department providing fire protection service to the described premises.



5. "P-5" Automatic Commercial Cooking Exhaust And Extinguishing System, installed on cooking appliances and having the following components:
  - a. Hood;
  - b. Grease removal device;
  - c. Duct system; and
  - d. Wet chemical fire extinguishing equipment.
6. "P-6" Central Station Burglar Alarm System.
7. "P-8" the fire-related protective system described in the Schedule.
8. "P-9" the theft-related protective system described in the Schedule.

The following is added to **Section I – Property Paragraph B. Exclusions**.

1. Knew of any suspension or impairment in any protective safeguard listed in the Schedule above and failed to notify us of that fact; or
  - a. Knew of any suspension or impairment in any protective safeguard listed above and failed to notify us of that fact; or
  - b. Failed to maintain any protective safeguard listed above, and over which you had control, in complete working order.

If part of an Automatic Sprinkler System or Automatic Commercial Cooking Exhaust And Extinguishing System is shut off due to breakage, leakage, freezing conditions or opening of sprinkler heads, notification to use will not be necessary if you can restore full protection within 48 hours.
2. If "P-3", "P-6" or "P-9" is designated in the Schedule, we will not pay for loss or damage caused by or resulting from theft if, prior to the theft, you:
  - a. Knew of any suspension or impairment in any protective safeguard listed above and failed to notify us of that fact; or
  - b. Failed to maintain any protective safeguard listed above, and over which you had control, in complete working order.

**BUSINESSOWNERS****BP 04 39 07 02**

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## **ABUSE OR MOLESTATION EXCLUSION**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following applies to Section II – Liability and supersedes any provision to the contrary.

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

(a) The actual or threatened abuse or molestation by anyone of any person while in the care, custody or control of any insured; or

(b) The negligent:

(i) Employment;

(ii) Investigation;

(iii) Supervision;

(iv) Reporting to the proper authorities, or failure to so report; or

(v) Retention;

of a person for whom any insured is or ever was legally responsible and whose conduct would be excluded by (a) above.

POLICY NUMBER: 1ABPSC05127380102

**BUSINESSOWNERS**  
BP 04 47 07 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – VENDORS**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM****SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s) (Vendor):	Your Products:
IMG College Licensing, all institutions represented by IMG Affinity Consultants & Affinity Licensing	screenprint products w/logo screenprint with logos
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section II – Liability** is amended as follows:**A. The following is added to Paragraph C. Who Is An Insured:**

3. Any person(s) or organization(s) (referred to throughout this endorsement as vendor) shown in the Schedule is also an additional insured, but only with respect to "bodily injury" or "property damage" arising out of "your products" shown in the Schedule which are distributed or sold in the regular course of the vendor's business.

However:

- a. The insurance afforded to such vendor only applies to the extent permitted by law; and
- b. If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.

**B. With respect to the insurance afforded to these vendors, the following additional exclusions apply:**

1. The insurance afforded the vendor does not apply to:
  - a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption

of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement.

- b. Any express warranty unauthorized by you;
- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient

of any other thing or substance by or for the vendor; or

h. "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(1) The exceptions contained in Subparagraph d. or f.; or

(2) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

2. This insurance does not apply to any insured person or organization from whom you have acquired such products, or any

ingredient, part or container entering into, accompanying or containing such products. C. With respect to the insurance afforded to these vendors, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:

If coverage provided to the vendor is required by a contract or agreement, the most we will pay on behalf of the vendor is the amount of insurance:

1. Required by the contract or agreement; or

2. Available under the applicable Limits Of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.



POLICY NUMBER: 1ABPSC05127380102

**BUSINESSOWNERS**  
BP 04 48 07 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – DESIGNATED PERSON  
OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM****SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>
Collegiate Licensing Company (CLC)
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Liability** is amended as follows:**A. The following is added to Paragraph C. Who Is An Insured:**

3. Any person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your ongoing operations or in connection with your premises owned by or rented to you.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable Limits Of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

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**BP 04 92 07 02**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **TOTAL POLLUTION EXCLUSION**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

Exclusion **B.1.f. Pollution** in **Section II – Liability** is replaced by the following:

This insurance does not apply to:

#### **f. Pollution**

- (1)** "Bodily injury" or "property damage" which would not have occurred in whole or part but for the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" at any time.

- (2)** Any loss, cost or expense arising out of any:

- (a)** Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
- (b)** Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**WAIVER OF TRANSFER OF RIGHTS AGAINST OTHERS TO US**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following is added to Paragraph K, **Transfer Of Rights Of Recovery Against Others To Us** in **SECTION III – COMMON POLICY CONDITIONS:**

We waive any right of recovery we may have against any person or organization because of payments we make under **SECTION II – LIABILITY** for injury or damage arising out of your ongoing operations or "your work" done under a contract with a person or organization and included in the "products-completed operations hazard", provided the contract is effective prior to the "occurrence" giving rise to the injury or damage.

All other terms and conditions of the policy remain unchanged.

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**BP 05 17 01 06**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **EXCLUSION – SILICA OR SILICA-RELATED DUST**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

**A. The following exclusion is added to Paragraph B. Exclusions in Section II – Liability:**

**B. Exclusions**

This insurance does not apply to:

#### **SILICA OR SILICA-RELATED DUST**

1. "Bodily injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, or ingestion of, "silica" or "silica-related dust"
2. "Property damage" arising, in whole or in part, out of the actual, alleged, threatened or suspected contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".
3. "Personal and advertising injury" arising, in whole or in part, out of the actual, alleged, threatened or suspected inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, "silica" or "silica-related dust".

4. Any loss, cost or expense arising, in whole or in part, out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to or assessing the effects of, "silica" or "silica-related dust", by any insured or by any other person or entity.

**B. The following definitions are added to Paragraph F. Liability And Medical Expenses Definitions in Section II – Liability:**

1. "Silica" means silicon dioxide, (occurring in crystalline, amorphous and impure forms), silica particles, silica dust or silica compounds.
2. "Silica-related dust" means a mixture or combination of silica and other dust or particles.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ELECTRONIC DATA AND INTERRUPTION OF COMPUTER  
OPERATIONS COVERAGE LIMITATION**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

**SECTION I – PROPERTY, Paragraph A.5.p.(2) Additional Coverage – Electronic Data and Paragraph A.5.q.(2)(c) Additional Coverage – Interruption of Computer Operations** are replaced with the following:

**p. Electronic Data**

(2) A computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation shall not be considered a Covered Cause of Loss under this Additional Coverage – Electronic Data. There is no coverage for loss or damage caused by or resulting from manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

**q. Interruption of Computer Operations**

(c) A computer virus, harmful code or similar instruction introduced into or enacted on a computer system (including "electronic data") or a network to which it is connected, designed to damage or destroy any part of the system or disrupt its normal operation shall not be considered a Covered Cause of Loss under this Additional Coverage – Interruption of Computer Operations. There is no coverage for an interruption related to manipulation of a computer system (including "electronic data") by any employee, including a temporary or leased employee, or by an entity retained by you, or for you, to inspect, design, install, modify, maintain, repair or replace that system.

All other terms and conditions of the policy remain unchanged.

**BUSINESSOWNERS**  
**BP 05 77 01 06**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **FUNGI OR BACTERIA EXCLUSION (LIABILITY)**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

The following provisions are added to **Section II – Liability**:

**A. The following exclusion is added to Paragraph B.1., Exclusions – Applicable To Business Liability Coverage:**

#### **t. Fungi Or Bacteria**

- (1) "Bodily injury", "property damage" or "personal and advertising injury" which would not have occurred, in whole or in part, but for the actual, alleged or threatened inhalation of, ingestion of, contact with, exposure to, existence of, or presence of, any "fungi" or bacteria on or within a building or structure, including its contents, regardless of whether any other cause, event, material or product contributed concurrently or in any sequence to such injury or damage.

- (2) Any loss, cost or expenses arising out of the abating, testing for, monitoring, cleaning up, removing, containing, treating, detoxifying, neutralizing, remediating or disposing of, or in any way responding to, or assessing the effects of, "fungi" or bacteria, by any insured or by any other person or entity.

This exclusion does not apply to any "fungi" or bacteria that are, are on, or are contained in, a good or product intended for bodily consumption.

**B. The following definition is added Paragraph F. Liability And Medical Expenses Definitions:**

1. "Fungi" means any type or form of fungus, including mold or mildew and any mycotoxins, spores, scents or by-products produced or released by fungi.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## WINDSTORM OR HAIL – BUSINESS INCOME SUBLIMIT

This endorsement modifies insurance provided under the following:

### BUSINESSOWNERS COVERAGE FORM

#### SCHEDULE

Premises Number	Building Number	Windstorm or Hail Business Income Sublimit
1	1	\$ 100,000
2	1	\$ 100,000

The following change is made to **SECTION I – PROPERTY**:

The following Paragraphs in **A. Coverage**:

1. **f. Business Income;**
2. **i. Civil Authority;**
3. **m. Business Income From Dependent Properties;**
4. **q. Interruption of Computer Operations;**

and any other Business Income or Extra Expense endorsements or provisions attached to this policy are amended as follows:

The most we will pay for the actual loss of Business Income, including Extra Expense, you sustain when loss or damage is caused directly or indirectly by Windstorm or Hail is the amount shown for the Windstorm Or Hail Business Income Sublimit in the above Schedule. The Windstorm Or Hail Business Income Sublimit in the above Schedule is part of and not in addition to the actual loss of Business Income you sustain due to the necessary suspension of your "operations" during the "period of restoration".

All other terms and conditions of the policy remain unchanged.

**BUSINESSOWNERS**  
**BP 10 05 07 02**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION – YEAR 2000 COMPUTER-RELATED AND  
OTHER ELECTRONIC PROBLEMS**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to Paragraph B.,  
**Exclusions in Section II – Liability:**

1. This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising directly or indirectly out of:
  - a. Any actual or alleged failure, malfunction, or inadequacy of:
    - (1) Any of the following, whether belonging to any insured or to others:
      - (a) Computer hardware, including microprocessors or other Electronic Data Processing Equipment as may be described elsewhere in the policy;
      - (b) Computer application software or other Electronic Media and Records as may be described elsewhere in the policy;
      - (c) Computer operating systems and related software;
      - (d) Computer networks;
      - (e) Microprocessors (computer chips) not part of any computer system; or
      - (f) Any other computerized or electronic equipment or components; or
    - (2) Any other products and any services, data or functions that directly or indirectly use or rely upon, in any manner, any of the items listed in Paragraph 1.a.(1) of this endorsement due to the inability to correctly recognize, process, distinguish, interpret or accept the year 2000 and beyond.
  - b. Any advice, consultation, design, evaluation, inspection, installation, maintenance, repair, replacement or supervision provided or done by you or for you to determine, rectify or test for, any potential or actual problems described in Paragraph 1.a. of this endorsement.



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PROFESSIONAL SERVICES PERFORMED BY UNLICENSED OR  
INELIGIBLE PERSONS EXCLUSION**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following is added to **SECTION II – LIABILITY, B. Exclusions, j. Professional Services:**

**Professional Services Performed by Unlicensed or Ineligible Persons Exclusion**

- a. Any person who is not licensed to provide services, if the law requires a license to provide such services; or
- b. A person who is not eligible to be legally employed or hired.

All other terms and conditions of the policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION - NUCLEAR HAZARD**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to **SECTION II – LIABILITY, Section B. Exclusions:**

**Nuclear Hazard**

(This amendment does not apply in New York)

"Bodily injury", "property damage" or "personal and advertising injury" arising out of any nuclear reaction or radiation or radioactive contamination, however caused. But if nuclear reaction or radiation, or radioactive contamination, results in a "hostile fire", this exclusion will not apply to "bodily injury" or "property damage" caused by the fire.

All other terms and conditions of the policy remain unchanged.

POLICY NUMBER: 1ABPSC05127380102

**BUSINESSOWNERS**  
BP 14 05 07 13**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****ADDITIONAL INSURED – GRANTOR OF FRANCHISE**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM****SCHEDULE****Name Of Person(s) Or Organization(s):**

Insurable interest: permission to use the pattern in products

1775 Dulsey Rd, Charleston, SC 29407

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Liability** is amended as follows:**A. The following is added to Paragraph C. Who Is An Insured:**

Any person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to their liability as a grantor of a franchise to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable Limits Of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.

**BUSINESSOWNERS**  
BP 15 05 05 14

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION – ACCESS OR DISCLOSURE OF  
CONFIDENTIAL OR PERSONAL INFORMATION AND  
DATA-RELATED LIABILITY – LIMITED BODILY INJURY  
EXCEPTION NOT INCLUDED**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

- A. Exclusion B.1.q. of Section II – Liability** is replaced by the following:

This insurance does not apply to:

**q. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

- (1)** Damages, other than damages because of "personal and advertising injury", arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2)** Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate electronic data.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

As used in this exclusion, electronic data means information, facts or computer programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), on hard or floppy disks, CD-ROMs, tapes, drives, cells, data processing devices or any other repositories of computer software which are used with electronically controlled equipment. The term computer programs, referred to in the foregoing description of electronic data, means a set of related electronic instructions which direct the operations and functions of a computer or device connected to it, which enable the computer or device to receive, process, store, retrieve or send data.

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**B. The following is added to Paragraph B.1.p.  
Personal And Advertising Injury Exclusion of  
Section II – Liability:**

This insurance does not apply to:

**p. Personal And Advertising Injury**

"Personal and advertising injury":

Arising out of any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of any access to or disclosure of any person's or organization's confidential or personal information.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**LIMITED EXCLUSION – PERSONAL AND ADVERTISING INJURY -  
PROFESSIONAL SERVICES**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to **Section II – Liability**:

This insurance provided does not apply to "personal and advertising injury" arising out of the rendering of or failure to render any professional service.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training, or monitoring of others by an insured, if the offense which caused the "personal and advertising injury", involved the rendering of or failure to render professional services.

All other terms and conditions of the policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION – ASBESTOS**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to **SECTION II – LIABILITY, Section B. Exclusions:**

**Asbestos**

- a. "Bodily Injury", "property damage" or "personal and advertising injury" arising out of any actual or alleged exposure to asbestos or asbestos containing materials, including the mere presence of asbestos in any form.
- b. Any damages, judgments, settlements, loss costs or expenses that:
  - (1) May be awarded or incurred by reason of any claim or "suit" alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the presence of asbestos;
  - (2) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, cleanup, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to the effects of an asbestos presence.
  - (3) Arise out of any claim or "suit" for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an asbestos presence.

All other terms and conditions of the policy remain unchanged.

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**EXCLUSION – ALUMINIUM WIRING**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following is added to **B. Exclusions** in **SECTION I - PROPERTY**:

**Aluminum Wiring**

We will not pay for loss or damage caused directly or indirectly by or resulting from aluminum wiring. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss. This exclusion applies whether or not the loss event results in widespread damage or affects a substantial area.

But, we will pay for loss or damage to Covered Property resulting from fire caused by aluminum wiring if, prior to the fire causing the loss or damage, the aluminum wiring was remediated by a licensed electrician using the AlumiConn or Copalum connector methods; and all such remediation, including modifications and additions to installed wiring, was completed, inspected and approved and in compliance with all applicable local codes and laws.

All other terms and conditions of this policy remain unchanged.



**BUSINESSOWNERS**  
**BP 14 86 07 13**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**COMMUNICABLE DISEASE EXCLUSION**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM**

The following exclusion is added to Paragraph B.  
**Exclusions in Section II – Liability:**

**Communicable Disease**

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the actual or alleged transmission of a communicable disease.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the:

- a. Supervising, hiring, employing, training or monitoring of others that may be infected with and spread a communicable disease;
- b. Testing for a communicable disease;
- c. Failure to prevent the spread of the disease; or
- d. Failure to report the disease to authorities.

POLICY NUMBER: 1ABPSC05127380102

**BUSINESSOWNERS**  
BP 15 11 12 16**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.****EXCLUSION - UNMANNED AIRCRAFT**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM****SCHEDULE**

<input type="checkbox"/>	<b>Bodily Injury And Property Damage:</b> Paragraph A. in this endorsement does not apply if an "X" is shown in the box.
<input type="checkbox"/>	<b>Personal And Advertising Injury:</b> Paragraph B. in this endorsement does not apply if an "X" is shown in the box.
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**Section II – Liability** is amended as follows:**A. Exclusion B.1.g. is replaced by the following:**

This insurance does not apply to:

**g. Aircraft, Auto Or Watercraft****(1) Unmanned Aircraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This Paragraph g.(1) applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or enhancement to others of any aircraft that is an "unmanned aircraft".

**(2) Aircraft (Other Than Unmanned Aircraft), Auto Or Watercraft**

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This Paragraph g.(2) applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft (other than "unmanned aircraft"), "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This Paragraph g.(2) does not apply to:

- (a) A watercraft while ashore on premises you own or rent;
- (b) A watercraft you do not own that is:
  - (i) Less than 51 feet long; and
  - (ii) Not being used to carry persons or property for a charge;
- (c) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;
- (d) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft; or
- (e) "Bodily injury" or "property damage" arising out of:
  - (i) The operation of machinery or equipment that is attached to, or part of, a land vehicle that would qualify under the definition of "mobile equipment" if it were not subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged; or
  - (ii) The operation of any of the following machinery or equipment:
    - i. Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and
    - ii. Air compressors, pumps and generators, including spraying, welding, building

cleaning, geophysical exploration, lighting and well servicing equipment.

**B. The following is added to Exclusion B.1.p. Personal And Advertising Injury:**

This insurance does not apply to:

**p. Personal And Advertising Injury**

"Personal and advertising injury":

Arising out of the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft". Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the offense which caused the "personal and advertising injury" involved the ownership, maintenance, use or entrustment to others of any aircraft that is an "unmanned aircraft".

This exclusion does not apply to:

- (1) The use of another's advertising idea in your "advertisement"; or
- (2) Infringing upon another's copyright, trade dress or slogan in your "advertisement".

**C. The following definition is added to Paragraph F. Liability And Medical Expenses Definitions:**

"Unmanned aircraft" means an aircraft that is not:

- 1. Designed;
- 2. Manufactured; or
- 3. Modified after manufacture;

to be controlled directly by a person from within or on the aircraft.

**CYBER SUITE  
SUPPLEMENTAL DECLARATIONS****Accredited Surety and Casualty Company, Inc.**  
A Randall & Quilter Group Company**PO BOX 140854, ORLANDO, FL 32814**Policy Number: 1ABPSC05127380102  
Account Number: 3935805507  
Named Insured: Pinillos, Fernando & Ena

Agent #: HARRELL

Cyber Coverage Effective Date: 07/28/2023

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**CYBER SUITE**

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**Annual Aggregate Limit:** \$50,000  
**Deductible Per Occurrence:** \$1,000**DATA COMPROMISE RESPONSE EXPENSES** Included  
**Sublimits Per Occurrence**  
Forensic IT Review: \$25,000  
Legal Review: \$25,000  
Public Relations: \$5,000  
Regulatory Fines and Penalties: \$25,000  
PCI Fines and Penalties: \$25,000**COMPUTER ATTACK** Included  
**Sublimits Per Occurrence**  
Loss of Business: \$25,000  
Public Relations: \$5,000**CYBER EXTORTION** Included  
**Sublimit Per Occurrence:** \$10,000**DATA COMPROMISE LIABILITY** Included**NETWORK SECURITY LIABILITY** Included

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**IDENTITY RECOVERY COVERAGE**

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**Annual Aggregate Limit Per "Identity Recovery Insured":** \$25,000  
**Deductible Per Occurrence:** None**Sublimits Per Occurrence**  
Lost Wages and Child and Elder Care Expenses: \$5,000  
Mental Health Counseling: \$1,000  
Miscellaneous Unnamed Costs: \$1,000



**BUSINESSOWNERS**  
**BP 15 60 02 21**

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CYBER INCIDENT EXCLUSION**

This endorsement modifies insurance provided under the following:

### **BUSINESSOWNERS COVERAGE FORM**

**Section I – Property** is amended as follows:

**A. The following exclusion is added to Paragraph B. Exclusions:**

We will not pay for loss or damage caused directly or indirectly by the following. Such loss or damage is excluded regardless of any other cause or event that contributes concurrently or in any sequence to the loss.

**Cyber Incident**

1. Unauthorized access to or use of any computer system (including "electronic data").
2. Malicious code, virus or any other harmful code that is directed at, enacted upon or introduced into any computer system (including "electronic data") and is designed to access, alter, corrupt, damage, delete, destroy, disrupt, encrypt, exploit, use or prevent or restrict access to or the use of any part of any computer system (including "electronic data") or otherwise disrupt its normal functioning or operation.
3. Denial of service attack which disrupts, prevents or restricts access to or use of any computer system, or otherwise disrupts its normal functioning or operation.

**B. Exceptions And Limitations**

**1. Fire Or Explosion**

If a cyber incident as described in Paragraphs A.1. through A.3. of this exclusion results in fire or explosion, we will pay for the loss or damage caused by that fire or explosion.

**2. Additional Coverage**

The exclusion in Paragraph A. does not apply to the extent that coverage is provided in the:

- a. Additional Coverage – Electronic Data; or
- b. Additional Coverage – Interruption Of Computer Operations.

**3. Computer Fraud And Funds Transfer Fraud Endorsement**

The exclusion in Paragraph A. does not apply to the Computer Fraud And Funds Transfer Fraud endorsement when attached to your policy.

**4. Electronic Commerce Endorsement**

The exclusion in Paragraph A. does not apply to the Electronic Commerce (E-Commerce) endorsement when attached to your policy.

**5. Information Security Protection Endorsement**

The exclusion in Paragraph A. does not apply to the Information Security Protection Endorsement when attached to your policy.

**C. Vandalism**

The following is added to Vandalism:

Vandalism does not include a cyber incident as described in Paragraph A.

# Cyber Suite Coverage Endorsement

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

Throughout this Coverage Endorsement (hereinafter referred to as "Cyber Coverage"), the words "you" and "your" refer to the Named Insured(s) shown in the Cyber Suite Supplemental Declarations of this Cyber Coverage and any other person(s) or organization(s) qualifying as a Named Insured under this Cyber Coverage. The words "we", "us" and "our" refer to the company providing this insurance.

Other words and phrases that appear in quotations have special meaning. Refer to **DEFINITIONS**.

The terms and conditions of the Cancellation Clause of the Common Policy Conditions and any amendment to such terms incorporated by endorsement are hereby incorporated herein and shall apply to coverage as is afforded by this Cyber Coverage, unless specifically stated otherwise in an endorsement(s) attached hereto.

## A. COVERAGE

This section lists the coverages that apply if indicated in the Cyber Suite Supplemental Declarations.

### 1. Data Compromise Response Expenses

a. Data Compromise Response Expenses applies only if all of the following conditions are met:

- (1) There has been a "personal data compromise"; and
- (2) Such "personal data compromise" took place in the "coverage territory"; and
- (3) Such "personal data compromise" is first discovered by you during the "policy period"; and
- (4) Such "personal data compromise" is reported to us as soon as practicable, but in no event more than 60 days after the date it is first discovered by you.

b. If the conditions listed in a. above have been met, then we will provide coverage for the following expenses when they arise directly from such "personal data compromise" and are necessary and reasonable. Items (4) and (5) below apply only if there has been a notification of the "personal data compromise" to "affected individuals" as covered under item (3) below.

#### (1) Forensic IT Review

We will pay for a professional information technologies review if needed to determine, within the constraints of what is possible and reasonable, the nature and extent of the "personal data compromise" and the number and identities of the "affected individuals".

This does not include costs to analyze, research or determine any of the following:

- (a) Vulnerabilities in systems, procedures or physical security;
- (b) Compliance with Payment Card Industry or other industry security standards; or
- (c) The nature or extent of "loss" or damage to data that is not "personally identifying information" or "personally sensitive information".

If there is reasonable cause to suspect that a covered "personal data compromise" may have occurred, we will pay for costs covered under Forensic IT Review, even if it is eventually determined that there was no covered "personal data compromise". However, once it is determined that there was no covered "personal data compromise", we will not pay for any further costs.

#### (2) Legal Review

We will pay for a professional legal counsel review of the "personal data compromise" and how you should best respond to it.

If there is reasonable cause to suspect that a covered "personal data compromise" may have occurred, we will pay for costs covered under Legal Review, even if it is eventually determined that there was no covered "personal data compromise". However, once it is determined that there was no covered "personal data compromise", we will not pay for any further costs.

#### (3) Notification to Affected Individuals

We will pay your necessary and reasonable costs to provide notification of the "personal data compromise" to "affected individuals".

**(4) Services to Affected Individuals**

We will pay your necessary and reasonable costs to provide the following services to "affected individuals". Services (c) and (d) below apply only to "affected individuals" from "personal data compromise" events involving "personally identifying information".

**(a) Informational Materials**

A packet of loss prevention and customer support information.

**(b) Help Line**

A toll-free telephone line for "affected individuals" with questions about the "personal data compromise". Where applicable, the line can also be used to request additional services as listed in (c) and (d) below.

**(c) Credit Report and Monitoring**

A credit report and an electronic service automatically monitoring for activities affecting an individual's credit records. This service is subject to the "affected individual" enrolling for this service with the designated service provider.

**(d) Identity Restoration Case Management**

As respects any "affected individual" who is or appears to be a victim of "identity theft" that may reasonably have arisen from the "personal data compromise", the services of an identity restoration professional who will assist that "affected individual" through the process of correcting credit and other records and, within the constraints of what is possible and reasonable, restoring control over his or her personal identity.

**(5) Public Relations**

We will pay for a professional public relations firm review of, and response to, the potential impact of the "personal data compromise" on your business relationships.

This includes necessary and reasonable costs to implement public relations recommendations of such firm. This may include advertising and special promotions designed to retain your relationship with "affected individuals". However, we will not pay for:

(a) Promotions provided to any of your directors or employees; or

(b) Promotion costs exceeding \$25 per "affected individual".

**(6) Regulatory Fines and Penalties**

We will pay for any fine or penalty imposed by law, to the extent such fine or penalty is legally insurable under the law of the applicable jurisdiction.

**(7) PCI Fines and Penalties**

We will pay for any Payment Card Industry fine or penalty imposed under a contract to which you are a party. PCI Fines and Penalties do not include any increased transaction costs.

**2. Computer Attack**

a. Computer Attack applies only if all of the following conditions are met:

(1) There has been a "computer attack"; and

(2) Such "computer attack" occurred in the "coverage territory"; and

(3) Such "computer attack" is first discovered by you during the "policy period"; and

(4) Such "computer attack" is reported to us as soon as practicable, but in no event more than 60 days after the date it is first discovered by you.

b. If the conditions listed in a. above have been met, then we will provide you the following coverages for "loss" directly arising from such "computer attack".

**(1) Data Restoration**

We will pay your necessary and reasonable "data restoration costs".

**(2) Data Re-creation**

We will pay your necessary and reasonable "data re-creation costs".

**(3) System Restoration**

We will pay your necessary and reasonable "system restoration costs".

**(4) Loss of Business**

We will pay your actual "business income and extra expense loss" incurred during the "period of restoration".

**(5) Extended Income Recovery**

If you suffer a covered "business income and extra expense loss" resulting from a "computer attack" on a "computer system" owned or leased by you and operated under your control, we will pay your actual "extended income loss".

**(6) Public Relations**

If you suffer a covered "business income and extra expense loss", we will pay for the services of a professional public relations firm to assist you in communicating your response to the "computer attack" to the media, the public and your customers, clients or members.

**3. Cyber Extortion**

a. Cyber Extortion applies only if all of the following conditions are met:

- (1) There has been a "cyber extortion threat"; and
- (2) Such "cyber extortion threat" is first made against you during the "policy period"; and
- (3) Such "cyber extortion threat" is reported to us as soon as practicable, but in no event more than 60 days after the date it is first made against you.

b. If the conditions listed in a. above have been met, then we will pay for your necessary and reasonable "cyber extortion expenses" arising directly from such "cyber extortion threat". The payment of "cyber extortion expenses" must be approved in advance by us. We will not pay for "cyber extortion expenses" that have not been approved in advance by us. We will not unreasonably withhold our approval.

c. You must make every reasonable effort not to divulge the existence of this Cyber Extortion coverage.

**4. Data Compromise Liability**

a. Data Compromise Liability applies only if all of the following conditions are met:

- (1) During the "policy period" or any applicable Extended Reporting Period, you first receive notice of one of the following:

- (a) A "claim"; or
- (b) A "regulatory proceeding"

- (2) Such "claim" or "regulatory proceeding" must arise from a "personal data compromise" that:

- (a) Took place during the "coverage term"; and
- (b) Took place in the "coverage territory"; and

- (c) Was submitted to us and insured under Data Compromise Response Expenses.

- (3) Such "claim" or "regulatory proceeding" is reported to us as soon as practicable, but in no event more than 60 days after the date it is first received by you.

b. If the conditions listed in a. above have been met, then we will pay on your behalf any covered:

- (1) "Loss" directly arising from the "claim"; or
- (2) "Defense costs" directly arising from a "regulatory proceeding".

c. All "claims" and "regulatory proceedings" arising from a single "personal data compromise" or interrelated "personal data compromises" will be deemed to have been made at the time that notice of the first of those "claims" or "regulatory proceedings" is received by you.

**5. Network Security Liability**

a. Network Security Liability applies only if all of the following conditions are met:

- (1) During the "policy period" or any applicable Extended Reporting Period, you first receive notice of a "claim" which arises from a "network security incident" that:

- (a) Took place during the "coverage term"; and
- (b) Took place in the "coverage territory"; and

- (2) Such "claim" is reported to us as soon as practicable, but in no event more than 60 days after the date it is first received by you.



- b. If the conditions listed in a. above have been met, then we will pay on your behalf any covered "loss" directly arising from the "claim".
- c. All "claims" arising from a single "network security incident" or interrelated "network security incidents" will be deemed to have been made at the time that notice of the first of those "claims" is received by you.

#### 6. Identity Recovery

- a. Identity Recovery applies only if all of the following conditions are met:
  - (1) There has been an "identity theft" involving the personal identity of an "identity recovery insured" under this Cyber Coverage; and
  - (2) Such "identity theft" took place in the "coverage territory"; and
  - (3) Such "identity theft" is first discovered by the "identity recovery insured" during the "policy period"; and
  - (4) Such "identity theft" is reported to us within 60 days after it is first discovered by the "identity recovery insured".
- b. If the conditions listed in a. above have been met, then we will provide the following to the "identity recovery insured":
  - (1) **Case Management Service**  
We will pay for the services of an "identity recovery case manager" as needed to respond to the "identity theft"; and
  - (2) **Expense Reimbursement**  
We will pay for reimbursement of necessary and reasonable "identity recovery expenses" incurred as a direct result of the "identity theft".

#### B. EXCLUSIONS

The following additional exclusions apply to this coverage:

We will not pay for costs or "loss" arising from the following:

- 1. Nuclear reaction or radiation or radioactive contamination, however caused.
- 2. War and military action including any of the following and any consequence of any of the following:
  - a. War, including undeclared or civil war;
  - b. Warlike action by military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
  - c. Insurrection, rebellion, revolution, usurped power, political violence or action taken by governmental authority in hindering or defending against any of these.
- 3. Failure or interruption of, or damage to, any electrical power supply network or telecommunications network not owned and operated by you including, but not limited to, the internet, internet service providers, Domain Name System (DNS) service providers, cable and wireless providers, internet exchange providers, search engine providers, internet protocol networks (and similar networks that may have different designations) and other providers of telecommunications or internet infrastructure.
- 4. Any attack on, incident involving, or loss to any computer or system of computers that is not a "computer system".
- 5. Costs to research or correct any deficiency.
- 6. Any fines or penalties other than those explicitly covered under Data Compromise Response Expenses.
- 7. Any criminal investigations or proceedings.
- 8. Your intentional or willful complicity in a covered "loss" event.
- 9. Your reckless disregard for the security of your "computer system" or data, including confidential or sensitive information of others in your care, custody or control.
- 10. Any criminal, fraudulent or dishonest act, error or omission, or any intentional or knowing violation of the law by you.
- 11. Any "personal data compromise", "computer attack", "cyber extortion threat" or "wrongful act" occurring before the "coverage term".

12. That part of any "claim" seeking any non-monetary relief. However, this exclusion does not apply to "defense costs" arising from an otherwise insured "wrongful act".
13. The propagation or forwarding of malware, including viruses, worms, Trojans, spyware and keyloggers in connection with hardware or software created, produced or modified by you for sale, lease or license to third parties.
14. "Property damage" or "bodily injury".
15. The theft of a professional or business identity.
16. Any fraudulent, dishonest or criminal act by an "identity recovery insured" or any person aiding or abetting an "identity recovery insured", or by any "authorized representative" of an "identity recovery insured", whether acting alone or in collusion with others. However, this exclusion will not apply to the interests of an "identity recovery insured" who has no knowledge of or involvement in such fraud, dishonesty or criminal act.
17. An "identity theft" that is not reported in writing to the police.

## C. LIMITS OF INSURANCE

### 1. Aggregate Limits

Except for post-judgment interest, the Cyber Suite Annual Aggregate Limit shown in the Cyber Suite Supplemental Declarations is the most we will pay for all "loss" under all applicable coverage sections, except Identity Recovery, in any one "policy period" or any applicable Extended Reporting Period. The Cyber Suite Annual Aggregate Limit shown in the Cyber Suite Supplemental Declarations applies regardless of the number of insured events first discovered or "claims" or "regulatory proceedings" first received during the "policy period" or any applicable Extended Reporting Period.

The Identity Recovery Coverage is subject to the Identity Recovery Limit as shown in the Cyber Suite Supplemental Declarations.

### 2. Coverage Sublimits

#### a. Data Compromise Sublimits

The most we will pay under Data Compromise Response Expenses for Forensic IT Review, Legal Review, Public Relations, Regulatory Fines and Penalties and PCI Fines and Penalties coverages for "loss" arising from any one "personal data compromise" is the applicable sublimit for each of those coverages shown in the Cyber Suite Supplemental Declarations.

These sublimits are part of, and not in addition to, the Cyber Suite Annual Aggregate Limit shown in the Cyber Suite Supplemental Declarations. Public Relations coverage is also subject to a limit per "affected individual" as described in A.1.b.(5).

#### b. Computer Attack Sublimits

The most we will pay under Computer Attack for Loss of Business and Extended Income Recovery coverages for "loss" arising from any one "computer attack" is the applicable Loss of Business sublimit shown in the Cyber Suite Supplemental Declarations. The most we will pay under Computer Attack for Public Relations coverage for "loss" arising from any one "computer attack" is the applicable Public Relations sublimit shown in the Cyber Suite Supplemental Declarations. These sublimits are part of, and not in addition to, the Cyber Suite Annual Aggregate Limit shown in the Cyber Suite Supplemental Declarations.

#### c. Cyber Extortion Sublimit

The most we will pay under Cyber Extortion coverage for "loss" arising from one "cyber extortion threat" is the applicable sublimit shown in the Cyber Suite Supplemental Declarations. This sublimit is part of, and not in addition to, the Cyber Suite Annual Aggregate Limit shown in the Cyber Suite Supplemental Declarations.

#### d. Identity Recovery Sublimits

The following provisions are applicable only to the Identity Recovery Coverage.

- (1) Case Management Service is available as needed for any one "identity theft" for up to 12 consecutive months from the inception of the service. Expenses we incur to provide Case Management Services do not reduce the annual aggregate limit for Identity Recovery.
- (2) Costs covered under item d. (Legal Costs) of the definition of "identity recovery expenses" are part of, and not in addition to, the annual aggregate limit for Identity Recovery.

- (3) Costs covered under item e. (Lost Wages) and item f. (Child and Elder Care Expenses) of the definition of "identity recovery expenses" are jointly subject to the Lost Wages and Child and Elder Care sublimit shown in the Cyber Suite Supplemental Declarations. This sublimit is part of, and not in addition to, the annual aggregate limit for Identity Recovery. Coverage is limited to wages lost and expenses incurred within 12 months after the first discovery of the "identity theft" by the "identity recovery insured".
- (4) Costs covered under item g. (Mental Health Counseling) of the definition of "identity recovery expenses" is subject to the Mental Health Counseling sublimit shown in the Cyber Suite Supplemental Declarations. This sublimit is part of, and not in addition to, the annual aggregate limit for Identity Recovery. Coverage is limited to counseling that takes place within 12 months after the first discovery of the "identity theft" by the "identity recovery insured".
- (5) Costs covered under item h. (Miscellaneous Unnamed Costs) of the definition of "identity recovery expenses" is subject to the Miscellaneous Unnamed Costs sublimit shown in the Cyber Suite Supplemental Declarations. This sublimit is part of, and not in addition to, the annual aggregate limit for Identity Recovery. Coverage is limited to costs incurred within 12 months after the first discovery of the "identity theft" by the "identity recovery insured".

### 3. Application of Limits

- a. A "computer attack", "cyber extortion threat", "personal data compromise" or "identity theft" may be first discovered by you in one "policy period" but it may cause insured "loss" in one or more subsequent "policy periods". If so, all insured "loss" arising from such "computer attack", "cyber extortion threat", "personal data compromise" or "identity theft" will be subject to the limit of insurance applicable to the "policy period" when the "computer attack", "cyber extortion threat", "personal data compromise" or "identity theft" was first discovered by you.
- b. You may first receive notice of a "claim" or "regulatory proceeding" in one "policy period" but it may cause insured "loss" in one or more subsequent "policy periods". If so, all insured "loss" arising from such "claim" or "regulatory proceeding" will be subject to the limit of insurance applicable to the "policy period" when notice of the "claim" or "regulatory proceeding" was first received by you.
- c. The limit of insurance for the Extended Reporting Periods (if applicable) will be part of, and not in addition to, the limit of insurance for the immediately preceding "policy period".
- d. Coverage for Services to Affected Individuals under Data Compromise Response Expenses is limited to costs to provide such services for a period of up to one year from the date of the notification to the "affected individuals". Notwithstanding, coverage for Identity Restoration Case Management services initiated within such one year period may continue for a period of up to one year from the date such Identity Restoration Case Management services are initiated.

### D. DEDUCTIBLES

1. We will not pay for "loss" until the amount of the insured "loss" exceeds the deductible amount shown in the Cyber Suite Supplemental Declarations. We will then pay the amount of "loss" in excess of the applicable deductible amount, subject to the applicable limits shown in the Cyber Suite Supplemental Declarations. You will be responsible for the applicable deductible amount.
2. The deductible will apply to all:
- a. "Loss" arising from the same insured event or interrelated insured events under Data Compromise Response Expenses, Computer Attack or Cyber Extortion.
- b. "Loss" resulting from the same "wrongful act" or interrelated "wrongful acts" insured under Data Compromise Liability or Network Security Liability.
3. In the event that "loss" is insured under more than one coverage section, only the single highest deductible applies.
4. Insurance coverage under Identity Recovery is not subject to a deductible.

### E. ADDITIONAL CONDITIONS

The following conditions apply in addition to the Common Policy Conditions:

#### 1. Bankruptcy

The bankruptcy or insolvency of you or your estate, will not relieve you or us of any obligation under this Cyber Coverage.

#### 2. Defense And Settlement



- a. We shall have the right and the duty to assume the defense of any applicable "claim" or "regulatory proceeding" against you. You shall give us such information and cooperation as we may reasonably require.
- b. You shall not admit liability for or settle any "claim" or "regulatory proceeding" or incur any defense costs without our prior written consent.
- c. At the time a "claim" or "regulatory proceeding" is first reported to us, you may request that we appoint a defense attorney of your choice. We will give full consideration to any such request.
- d. If you refuse to consent to any settlement recommended by us and acceptable to the claimant, we may then withdraw from your defense by tendering control of the defense to you. From that point forward, you shall, at your own expense, negotiate or defend such "claim" or "regulatory proceeding" independently of us. Our liability shall not exceed the amount for which the "claim" or suit could have been settled if such recommendation was consented to, plus "defense costs" incurred by us, and "defense costs" incurred by you with our written consent, prior to the date of such refusal.
- e. We will not be obligated to pay any "loss" or "defense costs", or to defend or continue to defend any "claim" or "regulatory proceeding" after the applicable limit of insurance has been exhausted.
- f. We will pay all interest on that amount of any judgment within the applicable limit of insurance which accrues:
  - (1) After entry of judgment; and
  - (2) Before we pay, offer to pay or deposit in court that part of the judgment within the applicable limit of insurance or, in any case, before we pay or offer to pay the entire applicable limit of insurance.

These interest payments will be in addition to and not part of the applicable limit of insurance.

### 3. Due Diligence

You agree to use due diligence to prevent and mitigate "loss" insured under this Cyber Coverage. This includes, but is not limited to, complying with, and requiring your vendors to comply with, reasonable and industry-accepted protocols for:

- a. Providing and maintaining appropriate physical security for your premises, "computer systems" and hard copy files;
- b. Providing and maintaining appropriate computer and Internet security;
- c. Maintaining and updating at appropriate intervals backups of computer data;
- d. Protecting transactions, such as processing credit card, debit card and check payments; and
- e. Appropriate disposal of files containing "personally identifying information", "personally sensitive information" or "third party corporate data", including shredding hard copy files and destroying physical media used to store electronic data.

### 4. Duties in the Event of a Claim, Regulatory Proceeding or Loss

- a. If, during the "policy period", incidents or events occur which you reasonably believe may give rise to a "claim" or "regulatory proceeding" for which coverage may be provided hereunder, such belief being based upon either written notice from the potential claimant or the potential claimant's representative; or notice of a complaint filed with a federal, state or local agency; or upon an oral "claim", allegation or threat, you shall give written notice to us as soon as practicable and either:
  - (1) Anytime during the "policy period"; or
  - (2) Anytime during the extended reporting periods (if applicable).
- b. If a "claim" or "regulatory proceeding" is brought against you, you must:
  - (1) Immediately record the specifics of the "claim" or "regulatory proceeding" and the date received;
  - (2) Provide us with written notice, as soon as practicable, but in no event more than 60 days after the date the "claim" or "regulatory proceeding" is first received by you;
  - (3) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "claim" or "regulatory proceeding";
  - (4) Authorize us to obtain records and other information;
  - (5) Cooperate with us in the investigation, settlement or defense of the "claim" or "regulatory proceeding";



- (6) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to you because of "loss" or "defense costs" to which this insurance may also apply; and
- (7) Not take any action, or fail to take any required action, that prejudices your rights or our rights with respect to such "claim" or "regulatory proceeding".
- c. In the event of a "personal data compromise", "computer attack", "cyber extortion threat" or "identity theft", insured under this Cyber Coverage, you and any involved "identity recovery insured" must see that the following are done:
  - (1) Notify the police if a law may have been broken.
  - (2) Notify us as soon as practicable, but in no event more than 60 days after the "personal data compromise", "computer attack", "cyber extortion threat" or "identity theft". Include a description of any property involved.
  - (3) As soon as possible, give us a description of how, when and where the "personal data compromise", "computer attack", "cyber extortion threat" or "identity theft" occurred.
  - (4) As often as may be reasonably required, permit us to:
    - (a) Inspect the property proving the "personal data compromise", "computer attack", "cyber extortion threat" or "identity theft";
    - (b) Examine your books, records, electronic media and records and hardware;
    - (c) Take samples of damaged and undamaged property for inspection, testing and analysis; and
    - (d) Make copies from your books, records, electronic media and records and hardware.
  - (5) Send us signed, sworn proof of "loss" containing the information we request to investigate the "personal data compromise", "computer attack", "cyber extortion threat" or "identity theft". You must do this within 60 days after our request. We will supply you with the necessary forms.
  - (6) Cooperate with us in the investigation or settlement of the "personal data compromise", "computer attack", "cyber extortion threat" or "identity theft".
  - (7) If you intend to continue your business, you must resume all or part of your operations as quickly as possible.
  - (8) Make no statement that will assume any obligation or admit any liability, for any "loss" for which we may be liable, without our prior written consent.
  - (9) Promptly send us any legal papers or notices received concerning the "loss".
- d. We may examine you under oath at such times as may be reasonably required, about any matter relating to this insurance or the "claim", "regulatory proceeding" or "loss", including your books and records. In the event of an examination, your answers must be signed.
- e. You may not, except at your own cost, voluntarily make a payment, assume any obligation, or incur any expense without our prior written consent.

#### 5. Extended Reporting Periods

- a. You will have the right to the Extended Reporting Periods described in this section, in the event of a "termination of coverage".
- b. If a "termination of coverage" has occurred, you will have the right to the following:
  - (1) At no additional premium, an Automatic Extended Reporting Period of 30 days immediately following the effective date of the "termination of coverage" during which you may first receive notice of a "claim" or "regulatory proceeding" arising directly from a "wrongful act" occurring before the end of the "policy period" and which is otherwise insured by this Cyber Coverage; and
  - (2) Upon payment of the additional premium of 100% of the full annual premium associated with the relevant coverage, a Supplemental Extended Reporting Period of one year immediately following the effective date of the "termination of coverage" during which you may first receive notice of a "claim" or "regulatory proceeding" arising directly from a "wrongful act" occurring before the end of the "policy period" and which is otherwise insured by this Cyber Coverage.

To obtain the Supplemental Extended Reporting Period, you must request it in writing and pay the additional premium due, within 30 days after the effective date of "termination of coverage". The additional premium for the Supplemental Extended Reporting Period will be fully earned at the inception of the Supplemental Extended Reporting Period. If we do not receive the written request

as required, you may not exercise this right at a later date.

This insurance, provided during the Supplemental Extended Reporting Period, is excess over any other valid and collectible insurance that begins or continues in effect after the Supplemental Extended Reporting Period becomes effective, whether the other insurance applies on a primary, excess, contingent, or any other basis.

#### 6. Identity Recovery Help Line

For assistance, if Identity Recovery applies, the "identity recovery insured" should call the Identity Recovery Help Line at 1-844-855-1894

The Identity Recovery Help Line can provide the "identity recovery insured" with:

- a. Information and advice for how to respond to a possible "identity theft"; and
- b. Instructions for how to submit a service request for Case Management Service and/or a claim form for Expense Reimbursement Coverage.

In some cases, we may provide Case Management services at our expense to an "identity recovery insured" prior to a determination that a covered "identity theft" has occurred. Our provision of such services is not an admission of liability under the Cyber Coverage. We reserve the right to deny further coverage or service if, after investigation, we determine that a covered "identity theft" has not occurred.

As respects Expense Reimbursement Coverage, the "identity recovery insured" must send to us, within 60 days after our request, receipts, bills or other records that support his or her "claim" for "identity recovery expenses".

#### 7. Legal Action Against Us

No one may bring a legal action against us under this insurance unless:

- a. There has been full compliance with all of the terms of this insurance; and
- b. The action is brought within two years after the date the "loss" or "identity theft" is first discovered by you, or the date on which you first receive notice of a "claim" or "regulatory proceeding".

#### 8. Legal Advice

We are not your legal advisor. Our determination of what is or is not insured under this Cyber Coverage does not represent advice or counsel from us about what you should or should not do.

#### 9. Other Insurance

If there is other insurance that applies to the same "loss", this Cyber Coverage shall apply only as excess insurance after all other applicable insurance has been exhausted.

#### 10. Pre-Notification Consultation

You agree to consult with us prior to the issuance of notification to "affected individuals". We assume no responsibility under Data Compromise Response Expenses for any services promised to "affected individuals" without our prior agreement. If possible, this pre-notification consultation will also include the designated service provider(s) as agreed to under the Service Providers condition below. You must provide the following at our pre-notification consultation with you:

- a. The exact list of "affected individuals" to be notified, including contact information.
- b. Information about the "personal data compromise" that may appropriately be communicated with "affected individuals".
- c. The scope of services that you desire for the "affected individuals". For example, coverage may be structured to provide fewer services in order to make those services available to more "affected individuals" without exceeding the available Data Compromise Response Expenses limit of insurance.

#### 11. Service Providers

- a. We will only pay under this Cyber Coverage for services that are provided by service providers approved by us. You must obtain our prior approval for any service provider whose expenses you want covered under this Cyber Coverage. We will not unreasonably withhold such approval.
- b. Prior to the Pre-Notification Consultation described in the Pre-Notification Consultation Condition above, you must come to agreement with us regarding the service provider(s) to be used for the Notification to Affected Individuals and Services to Affected Individuals. We will suggest a service provider. If you prefer to use an alternate service provider, our coverage is subject to the following limitations:

- (1) Such alternate service provider must be approved by us;
- (2) Such alternate service provider must provide services that are reasonably equivalent or superior in both kind and quality to the services that would have been provided by the service provider we had suggested; and
- (3) Our payment for services provided by any alternate service provider will not exceed the amount that we would have paid using the service provider we had suggested.

## 12. Services

The following conditions apply as respects any services provided to you or any "affected individual" or "identity recovery insured" by us, our designees or any service firm paid for in whole or in part under this Cyber Coverage:

- a. The effectiveness of such services depends on the cooperation and assistance of you, "affected individuals" and "identity recovery insureds".
- b. All services may not be available or applicable to all individuals. For example, "affected individuals" and "identity recovery insureds" who are minors or foreign nationals may not have credit records that can be provided or monitored. Service in Canada will be different from service in the United States and Puerto Rico in accordance with local conditions.
- c. We do not warrant or guarantee that the services will end or eliminate all problems associated with the covered events.
- d. Except for the services of an "identity recovery case manager" under Identity Recovery, which we will provide directly, you will have a direct relationship with the professional service firms paid for in whole or in part under this Cyber Coverage. Those firms work for you.

## F. DEFINITIONS

1. **"Affected Individual"** means any person whose "personally identifying information" or "personally sensitive information" is lost, stolen, accidentally released or accidentally published by a "personal data compromise" covered under this Cyber Coverage. This definition is subject to the following provisions:
  - a. "Affected individual" does not include any business or organization. Only an individual person may be an "affected individual".
  - b. An "affected individual" may reside anywhere in the world.
2. **"Authorized Representative"** means a person or entity authorized by law or contract to act on behalf of an "identity recovery insured".
3. **"Authorized Third Party User"** means a party who is not an employee or a director of you who is authorized by contract or other agreement to access the "computer system" for the receipt or delivery of services.
4. **"Bodily Injury"** means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time.
5. **"Business Income and Extra Expense Loss"** means loss of Business Income and Extra Expense.
  - a. As used in this definition, Business Income means the sum of:
    - (1) Net income (net profit or loss before income taxes) that would have been earned or incurred; and
    - (2) Continuing normal and necessary operating expenses incurred, including employee and director payroll.
  - b. As used in this definition, Extra Expense means the additional cost you incur to operate your business over and above the cost that you normally would have incurred to operate your business during the same period had no "computer attack" occurred.
6. **"Claim"**
  - a. "Claim" means:
    - (1) A written demand for monetary damages or non-monetary relief, including injunctive relief;
    - (2) A civil proceeding commenced by the filing of a complaint;
    - (3) An arbitration proceeding in which such damages are claimed and to which you must submit or do submit with our consent;
    - (4) Any other alternative dispute resolution proceeding in which such damages are claimed and to



which you must submit or to which we agree you should submit to;  
arising from a "wrongful act" or a series of interrelated "wrongful acts" including any resulting appeal.

b. "Claim" does not mean or include:

(1) Any demand or action brought by or on behalf of someone who is:

- (a) Your director;
- (b) Your owner or part-owner; or
- (c) A holder of your securities;

in their capacity as such, whether directly, derivatively, or by class action. "Claim" will include proceedings brought by such individuals in their capacity as "affected individuals", but only to the extent that the damages claimed are the same as would apply to any other "affected individual"; or

(2) A "regulatory proceeding".

c. Includes a demand or proceeding arising from a "wrongful act" that is a "personal data compromise" only when the "personal data compromise" giving rise to the proceeding was covered under Data Compromise Response Expenses section of this Cyber Coverage, and you submitted a "claim" to us and provided notifications and services to "affected individuals" in consultation with us pursuant to Data Compromise Response Expenses in connection with such "personal data compromise".

7. "Computer Attack"

a. "Computer attack" means one of the following involving the "computer system":

- (1) An "unauthorized access incident";
- (2) A "malware attack"; or
- (3) A "denial of service attack" against a "computer system".

b. A "computer attack" ends at the earlier of:

- (1) The time that the active attacking behavior ceases, the time that you have regained control over the "computer system" or the time that all unauthorized creation, destruction or movement of data associated with the "computer attack" has ceased, whichever happens latest; or
- (2) 30 days after your discovery of the "computer attack".

8. "Computer System" means a computer or other electronic hardware that:

- a. Is owned or leased by you and operated under your control; or
- b. Is operated by a third party service provider used for the purpose of providing hosted computer application services to you or for processing, maintaining, hosting or storing your electronic data, pursuant to a written contract with you for such services. However, such computer or other electronic hardware operated by such third party shall only be considered to be a "computer system" with respect to the specific services provided by such third party to you under such contract.

9. "Coverage Term" means the increment of time:

- a. Commencing on the earlier of the first inception date of this Cyber Coverage or the first inception date of any coverage substantially similar to that described in this Cyber Coverage and held immediately prior to this Cyber coverage; and
- b. Ending upon the "termination of coverage".

10. "Coverage Territory" means:

- a. With respect to Data Compromise Response Expenses, Computer Attack, Cyber Extortion and Identity Recovery, "coverage territory" means anywhere in the world.
- b. With respect to Data Compromise Liability and Network Security Liability, "coverage territory" means anywhere in the world, however "claims" must be brought within the United States (including its territories and possessions) or Puerto Rico.

11. "Cyber Extortion Expenses" means:

- a. The cost of a negotiator or investigator retained by you in connection with a "cyber extortion threat"; and
- b. Any amount paid by you in response to a "cyber extortion threat" to the party that made the "cyber



extortion threat" for the purposes of eliminating the "cyber extortion threat" when such expenses are necessary and reasonable and arise directly from a "cyber extortion threat". The payment of "cyber extortion expenses" must be approved in advance by us. We will not pay for "cyber extortion expenses" that have not been approved in advance by us. We will not unreasonably withhold our approval.

**12. "Cyber Extortion Threat" means:**

- a. "Cyber extortion threat" means a demand for money from you based on a credible threat, or series of related credible threats, to:
  - (1) Launch a "denial of service attack" against the "computer system" for the purpose of denying "authorized third party users" access to your services provided through the "computer system" via the Internet;
  - (2) Gain access to a "computer system" and use that access to steal, release or publish "personally identifying information", "personally sensitive information" or "third party corporate data";
  - (3) Alter, damage or destroy electronic data or software while such electronic data or software is stored within a "computer system";
  - (4) Launch a "computer attack" against a "computer system" in order to alter, damage or destroy electronic data or software while such electronic data or software is stored within a "computer system"; or
  - (5) Cause you to transfer, pay or deliver any funds or property using a "computer system" without your authorization.
- b. "Cyber extortion threat" does not mean or include any threat made in connection with a legitimate commercial dispute.

**13. "Data Re-creation Costs"**

- a. "Data re-creation costs" means the costs of an outside professional firm hired by you to research, re-create and replace data that has been lost or corrupted and for which there is no electronic source available or where the electronic source does not have the same or similar functionality to the data that has been lost or corrupted.
- b. "Data re-creation costs" does not mean or include costs to research, re-create or replace:
  - (1) Software programs or operating systems that are not commercially available; or
  - (2) Data that is obsolete, unnecessary or useless to you.

**14. "Data Restoration Costs"**

- a. "Data restoration costs" means the costs of an outside professional firm hired by you to replace electronic data that has been lost or corrupted. In order to be considered "data restoration costs", such replacement must be from one or more electronic sources with the same or similar functionality to the data that has been lost or corrupted.
- b. "Data restoration costs" does not mean or include costs to research, re-create or replace:
  - (1) Software programs or operating systems that are not commercially available; or
  - (2) Data that is obsolete, unnecessary or useless to you.

**15. "Defense Costs"**

- a. "Defense costs" means reasonable and necessary expenses consented to by us resulting solely from the investigation, defense and appeal of any "claim" or "regulatory proceeding" against you. Such expenses may include premiums for any appeal bond, attachment bond or similar bond. However, we have no obligation to apply for or furnish such bond.
- b. "Defense costs" does not mean or include the salaries or wages of your employees or directors, or your loss of earnings.

**16. "Denial of Service Attack" means an intentional attack against a target computer or network of computers designed to overwhelm the capacity of the target computer or network in order to deny or impede authorized users from gaining access to the target computer or network through the Internet.**

**17. "Extended Income Loss" means your actual "business income and extra expense loss" incurred during the "extended recovery period".**

**18. "Extended Recovery Period" means a fixed period of 180 days immediately following the end of the "period of restoration".**

19. **"Identity Recovery Case Manager"** means one or more individuals assigned by us to assist an "identity recovery insured" with communications we deem necessary for re-establishing the integrity of the personal identity of the "identity recovery insured". This includes, with the permission and cooperation of the "identity recovery insured", written and telephone communications with law enforcement authorities, governmental agencies, credit agencies and individual creditors and businesses.
20. **"Identity Recovery Expenses"** means the following when they are reasonable and necessary expenses that are incurred as a direct result of an "identity theft" suffered by an "identity recovery insured":
- a. **Re-Filing Costs**  
Costs for re-filing applications for loans, grants or other credit instruments that are rejected solely as a result of an "identity theft".
  - b. **Notarization, Telephone and Postage Costs**  
Costs for notarizing affidavits or other similar documents, long distance telephone calls and postage solely as a result of the "identity recovery insured's" efforts to report an "identity theft" or amend or rectify records as to the "identity recovery insured's" true name or identity as a result of an "identity theft".
  - c. **Credit Reports**  
Costs for credit reports from established credit bureaus.
  - d. **Legal Costs**  
Fees and expenses for an attorney approved by us for the following:
    - (1) The defense of any civil suit brought against an "identity recovery insured".
    - (2) The removal of any civil judgment wrongfully entered against an "identity recovery insured".
    - (3) Legal assistance for an "identity recovery insured" at an audit or hearing by a governmental agency.
    - (4) Legal assistance in challenging the accuracy of the "identity recovery insured's" consumer credit report.
    - (5) The defense of any criminal charges brought against an "identity recovery insured" arising from the actions of a third party using the personal identity of the "identity recovery insured".
  - e. **Lost Wages**  
Actual lost wages of the "identity recovery insured" for time reasonably and necessarily taken away from work and away from the work premises. Time away from work includes partial or whole work days. Actual lost wages may include payment for vacation days, discretionary days, floating holidays and paid personal days. Actual lost wages does not include sick days or any loss arising from time taken away from self-employment. Necessary time off does not include time off to do tasks that could reasonably have been done during non-working hours.
  - f. **Child and Elder Care Expenses**  
Actual costs for supervision of children or elderly or infirm relatives or dependents of the "identity recovery insured" during time reasonably and necessarily taken away from such supervision. Such care must be provided by a professional care provider who is not a relative of the "identity recovery insured".
  - g. **Mental Health Counseling**  
Actual costs for counseling from a licensed mental health professional. Such care must be provided by a professional care provider who is not a relative of the "identity recovery insured".
  - h. **Miscellaneous Unnamed Costs**  
Any other reasonable costs necessarily incurred by an "identity recovery insured" as a direct result of the "identity theft".
    - (1) Such costs include:
      - (a) Costs by the "identity recovery insured" to recover control over his or her personal identity.
      - (b) Deductibles or service fees from financial institutions.
    - (2) Such costs do not include:
      - (a) Costs to avoid, prevent or detect "identity theft" or other loss.
      - (b) Money lost or stolen.
      - (c) Costs that are restricted or excluded elsewhere in this Cyber Coverage or policy.

**21. "Identity Recovery Insured" means the following:**

- a. When the entity insured under this Cyber Coverage is a sole proprietorship, the "identity recovery insured" is the individual person who is the sole proprietor of the insured identity.
- b. When the entity insured under this Cyber Coverage is a partnership, the "identity recovery insureds" are the current partners.
- c. When the entity insured under this Cyber Coverage is a corporation or other form of organization, other than those described in a. or b. above, the "identity recovery insureds" are all individuals having an ownership position of 20% or more of the insured entity. However, if, and only if, there is no one who has such an ownership position, then the "identity recovery insured" will be:
  - (1) The chief executive of the insured entity; or
  - (2) As respects a religious institution, the senior ministerial employee.

An "identity recovery insured" must always be an individual person. If the entity insured under this Cyber Coverage is a legal entity, that legal entity is not an "identity recovery insured".

**22. "Identity Theft"**

- a. "Identity theft" means the fraudulent use of "personally identifying information". This includes fraudulently using such information to establish credit accounts, secure loans, enter into contracts or commit crimes.
- b. "Identity theft" does not mean or include the fraudulent use of a business name, d/b/a or any other method of identifying a business activity.

**23. "Loss"**

- a. With respect to Data Compromise Response Expenses, "loss" means those expenses enumerated in Data Compromise Response Expenses, paragraph b.
- b. With respect to Computer Attack, "loss" means those expenses enumerated in Computer Attack, paragraph b.
- c. With respect to Cyber Extortion, "loss" means "cyber extortion expenses".
- f. With respect to Data Compromise Liability and Network Security Liability, "loss" means "defense costs" and "settlement costs".
- g. With respect to Identity Recovery, "loss" means those expenses enumerated in Identity Recovery, paragraph b.

**24. "Malware Attack"**

- a. "Malware attack" means an attack that damages a "computer system" or data contained therein arising from malicious code, including viruses, worms, Trojans, spyware and keyloggers.
- b. "Malware attack" does not mean or include damage from shortcomings or mistakes in legitimate electronic code or damage from code installed on your "computer system" during the manufacturing process or normal maintenance.

**25. "Network Security Incident" means a negligent security failure or weakness with respect to a "computer system" which allowed one or more of the following to happen:**

- a. The unintended propagation or forwarding of malware, including viruses, worms, Trojans, spyware and keyloggers. Malware does not include shortcomings or mistakes in legitimate electronic code;
- b. The unintended abetting of a "denial of service attack" against one or more other systems; or
- c. The unintended loss, release or disclosure of "third party corporate data".

**26. "Period of Restoration" means the period of time that begins 8 hours after the time that a "computer attack" is discovered by you and continues until the earliest of:**

- a. The date that all data restoration, data re-creation and system restoration directly related to the "computer attack" has been completed;
- b. The date on which such data restoration, data re-creation and system restoration could have been completed with the exercise of due diligence and dispatch; or
- c. If no data restoration, data re-creation or system restoration is required, the end of the "computer attack".

**27. "Personal Data Compromise" means the loss, theft, accidental release or accidental publication of "personally identifying information" or "personally sensitive information" as respects one or more "affected individuals". If the loss, theft, accidental release or accidental publication involves "personally identifying**

information", such loss, theft, accidental release or accidental publication must result in or have the reasonable possibility of resulting in the fraudulent use of such information. This definition is subject to the following provisions:

- a. At the time of the loss, theft, accidental release or accidental publication, the "personally identifying information" or "personally sensitive information" need not be at the insured premises but must be in the direct care, custody or control of:

(1) You; or

(2) A professional entity with which you have a direct relationship and to which you (or an "affected individual" at your direction) have turned over (directly or via a professional transmission or transportation provider) such information for storage, processing, transmission or transportation of such information.

- b. "Personal data compromise" includes disposal or abandonment of "personally identifying information" or "personally sensitive information" without appropriate safeguards such as shredding or destruction, provided that the failure to use appropriate safeguards was accidental and not reckless or deliberate.
- c. "Personal data compromise" includes situations where there is a reasonable cause to suspect that such "personally identifying information" or "personally sensitive information" has been lost, stolen, accidentally released or accidentally published, even if there is no firm proof.
- d. All incidents of "personal data compromise" that are discovered at the same time or arise from the same cause will be considered one "personal data compromise".

**28. "Personally Identifying Information"**

- a. "Personally identifying information" means information, including health information, that could be used to commit fraud or other illegal activity involving the credit, access to health care or identity of an "affected individual" or "identity recovery insured". This includes, but is not limited to, Social Security numbers or account numbers.
- b. "Personally identifying information" does not mean or include information that is otherwise available to the public, such as names and addresses.

**29. "Personally Sensitive Information"**

- a. "Personally sensitive information" means private information specific to an individual the release of which requires notification of "affected individuals" under any applicable law.
- b. "Personally sensitive information" does not mean or include "personally identifying information".

**30. "Policy Period"** means the period commencing on the effective date shown in the Cyber Suite Supplemental Declarations. The "policy period" ends on the expiration date or the cancellation date of this Cyber Coverage, whichever comes first.

**31. "Property Damage"** means

- a. Physical injury to or destruction of tangible property including all resulting loss of use; or
- b. Loss of use of tangible property that is not physically injured.

**32. "Regulatory Proceeding"** means an investigation, demand or proceeding alleging a violation of law or regulation arising from a "personal data compromise" brought by, or on behalf of, the Federal Trade Commission, Federal Communications Commission or other administrative or regulatory agency, or any federal, state, local or foreign governmental entity in such entity's regulatory or official capacity.

**33. "Settlement Costs"**

- a. "Settlement costs" means the following, when they arise from a "claim":
- (1) Damages, judgments or settlements; and
- (2) Attorney's fees and other litigation costs added to that part of any judgment paid by us, when such fees and costs are awarded by law or court order; and
- (3) Pre-judgment interest on that part of any judgment paid by us.
- b. "Settlement costs" does not mean or include:
- (1) Civil or criminal fines or penalties imposed by law, except for civil fines and penalties expressly covered under Data Compromise Response Expenses;
- (2) Punitive and exemplary damages;



- (3) The multiple portion of any multiplied damages;
- (4) Taxes; or
- (5) Matters which may be deemed uninsurable under the applicable law.
- c. With respect to fines and penalties, the law of the jurisdiction most favorable to the insurability of those fines, or penalties will control for the purpose of resolving any dispute between us and you regarding whether the fines, or penalties specified in this definition above are insurable under this Cyber Coverage, provided that such jurisdiction:
  - (1) Is where those fines, or penalties were awarded or imposed;
  - (2) Is where any "wrongful act" took place for which such fines, or penalties were awarded or imposed;
  - (3) Is where you are incorporated or you have your principal place of business; or
  - (4) Is where we are incorporated or have our principal place of business.
- 34. "System Restoration Costs"**
  - a. "System restoration costs" means the costs of an outside professional firm hired by you to do any of the following in order to restore your "computer system" to its pre-"computer attack" level of functionality:
    - (1) Replace or reinstall computer software programs;
    - (2) Remove any malicious code; and
    - (3) Configure or correct the configuration of your "computer system".
  - b. "System restoration costs" does not mean or include:
    - (1) Costs to increase the speed, capacity or utility of a "computer system" beyond what existed immediately prior to the "computer attack";
    - (2) Labor costs of your employees or directors;
    - (3) Any costs in excess of the actual cash value of your "computer system"; or
    - (4) Costs to repair or replace hardware.
- 35. "Termination of Coverage" means:**
  - a. You or we cancel this coverage;
  - b. You or we refuse to renew this coverage; or
  - c. We renew this coverage on an other than claims-made basis or with a retroactive date later than the date of the first inception of this coverage or any coverage substantially similar to that described in this Cyber Coverage.
- 36. "Third Party Corporate Data"**
  - a. "Third party corporate data" means any trade secret, data, design, interpretation, forecast, formula, method, practice, credit or debit card magnetic strip information, process, record, report or other item of information of a third party not an insured under this Cyber Coverage which is not available to the general public and is provided to you subject to a mutually executed written confidentiality agreement or which you are legally required to maintain in confidence.
  - b. "Third party corporate data" does not mean or include "personally identifying information" or "personally sensitive information".
- 37. "Unauthorized Access Incident" means the gaining of access to a "computer system" by:**
  - a. An unauthorized person or persons; or
  - b. An authorized person or persons for unauthorized purposes.
- 38. "Wrongful Act"**
  - a. With respect to Data Compromise Liability, "wrongful act" means a "personal data compromise".
  - b. With respect to Network Security Liability, "wrongful act" means a "network security incident".

ALL OTHER PROVISIONS OF THIS POLICY APPLY.

**CITATION**

(Long Arm LSA R.S. 13:3205 et seq.)

**SOUTHERN MARSH COLLECTION, LLC**  
(Plaintiff)**NUMBER C-735495 "32"****VS****19<sup>th</sup> JUDICIAL DISTRICT COURT****PARISH OF EAST BATON ROUGE****RED HORSE SCREEN PRINTING, INC.**  
**D/B/A SOUTHERN STRUT**  
(Defendant)**STATE OF LOUISIANA****TO: RED HORSE SCREEN PRINTING, INC. D/B/A SOUTHERN STRUT****GREETINGS:**

Attached to this citation is a certified copy of a petition or other legal pleading that has been filed with the Clerk of Court for East Baton Rouge Parish ("Clerk of Court") and in which service upon you was requested by the filing party. Please read the petition for information concerning any claims that may have been asserted against you.

You are required to file an answer to the petition or other legal pleading in the Clerk of Court's Civil Department located at 300 North Boulevard, Suite 3301, Baton Rouge, Louisiana, and you must do so within **30 DAYS** of the date you were served with the petition.

If you fail to file an answer or other legal pleading, a default judgment may be rendered against you. Any questions you may have seeking legal advice should be directed to an attorney at law, not the Clerk of Court.

This citation was issued by the Clerk of Court for East Baton Rouge Parish, on **AUGUST 7, 2023**.

*Kellah R. Burgess*

*Deputy Clerk of Court for*  
**Doug Welborn, Clerk of Court**

**Requesting Attorney: LAMBERT, MICHAEL J**

\*Also attached are the following documents:  
**ORIGINAL PETITION**

EAST BATON ROUGE PARISH  
Filed Aug 04, 2023 3:53 PM  
Deputy Clerk of Court  
E-File Received Aug 04, 2023 3:07 PM  
C-735495  
32

19<sup>TH</sup> JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE  
STATE OF LOUISIANA

NO. \_\_\_\_\_

DIV: \_\_\_\_\_

SOUTHERN MARSH COLLECTION, LLC

VERSUS

RED HORSE SCREEN PRINTING, INC. d/b/a SOUTHERN STRUT

FILED: \_\_\_\_\_

DEPUTY CLERK

**ORIGINAL PETITION**

Plaintiff Southern Marsh Collection, LLC files this Original Petition against Defendant Red Horse Screen Printing, Inc. d/b/a Southern Strut and respectfully states as follows:

**I. PARTIES**

1. Plaintiff Southern Marsh Collection, LLC ("Southern Marsh") is a limited liability company duly organized and existing under the laws of the State of Louisiana with its principal place of business at 2507 Highland Road, Baton Rouge, Louisiana 70802.
2. Defendant Red Horse Screen Printing, Inc. d/b/a Southern Strut ("Southern Strut") is a corporation organized under the laws of South Carolina with an address at 1975 Dulsey Rd. #1A, Charleston, SC 29407.

**II. JURISDICTION AND VENUE**

3. Subject-matter jurisdiction is proper in this Court under La. C.C.P. art. 2 and La. Const. art. V, § 16(A)(1).

**ORIGINAL PETITION**

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4. The court has personal jurisdiction over Southern Strut under La. R.S. § 13:3201 because Southern Strut has caused injury or damages in this state by, on information and belief, selling or offering to sell infringing products to residents of this state through an interactive website whereby Southern Strut can interact with Louisiana residents and whereby infringing products can be and possibly have been ordered, sold, and shipped into Louisiana.

5. Venue is proper under La. R.S. § 13:3203 because this case is being brought under La. R.S. § 13:3201 and Southern Marsh is domiciled in East Baton Rouge Parish. Venue is proper under La. C.C.P. art. 74 because wrongful conduct occurred in East Baton Rouge Parish and damages were sustained in East Baton Rouge Parish by way of Southern Strut's marketing and possible sales and shipment of infringing products into this parish. Venue is also proper under La. C.C.P. art. 42(5).

### **III. FACTUAL BACKGROUND**

#### **A. Southern Marsh and Its Trademarks**

6. Founded in 2007, Southern Marsh is in the business of designing and selling a wide variety of outdoor apparel and accessories, including hats, t-shirts, and hoodies, among many other products.

7. Southern Marsh sells its unique products in its own brick and mortar boutiques, in retail stores throughout the country, and online to customers around the world through its website located at [www.southernmarsh.com](http://www.southernmarsh.com).

8. Throughout its website, in its retail stores, on its marketing materials, and on numerous items of its unique Southern Marsh branded apparel and accessories, Southern Marsh

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displays its unique duck-style logo, depicted below, which has come to be known as a source identifier for Southern Marsh's high-quality products:



(the "Southern Marsh Logo").

9. Examples of products featuring the Southern Marsh Logo are shown below:



10. In addition to the Southern Marsh Logo, Southern Marsh uses the SOUTHERN MARSH word mark in association with the marketing and sale of its products ("SOUTHERN MARSH Word Mark"). Examples of products featuring the SOUTHERN MARSH Word Mark are shown below:

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ORIGINAL PETITION

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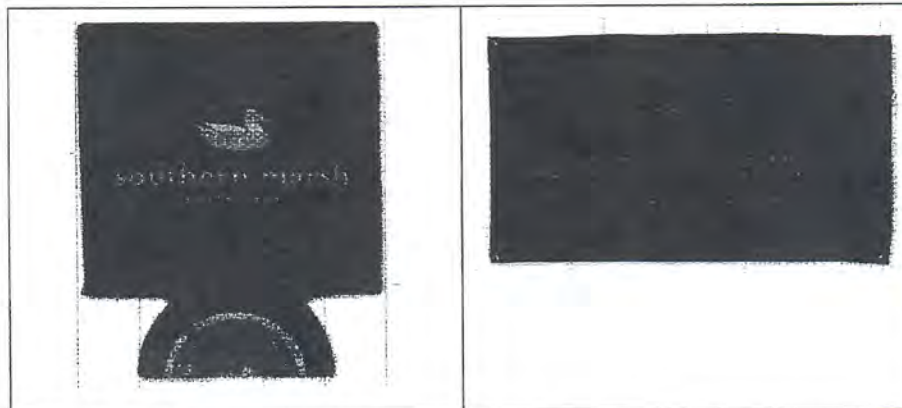
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11. In addition to owning substantial common law rights in the Southern Marsh Logo and the SOUTHERN MARSH Word Mark, Southern Marsh owns several U.S. Trademark Registrations for its family of trademarks, including the Southern Marsh Logo and the SOUTHERN MARSH Word Mark, as shown below:

<u>Mark</u>	<u>U.S. TM Reg. No.</u>	<u>Description of Goods</u>
<b>SOUTHERN MARSH</b>	4,358,000	Clothing, namely, tops, bottoms; pants, shorts, swim suits, shells, hats, visors, rainwear, dress shirts, performance shirts, sweaters, sweatshirts, [ shoes, ] sandals, polo shirts, [ socks, ] belts for clothing; outerwear, namely, [ parkas, ] coats, jackets, fleeces, vests.

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SOUTHERN MARSH	5,349,770	Eyewear retainers; computer carrying case; stickers; travel kit bags, sold empty; thermal insulated containers for beverages; polyester and fleece blankets.
	4,494,173	Clothing, namely, tops, bottoms, pants, shorts, swim suits, shells, hats, visors, rainwear, shirts, t-shirts, dress shirts, performance shirts, sweaters, sweatshirts, shoes, footwear, sandals, polo shirts, underwear, boxers, socks, and belts for clothing; outerwear, namely, parkas, coats, jackets, fleece tops, fleece jackets, fleece pullovers, vests, and one-piece shell suits
 southern marsh	4,358,005	Clothing, namely, tops, bottoms; pants, shorts, swim suits, shells, hats, visors, rainwear, shirts, t-shirts, dress shirts, performance shirts, sweaters, sweatshirts, shoes, sandals, polo shirts, socks, belts for clothing; outerwear, namely, parkas, coats, jackets, fleeces, vests.

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	4,375,212	Clothing, namely, tops, bottoms; pants, shorts, swim suits, shells, hats, visors, rainwear, shirts, t-shirts, dress shirts, performance shirts, sweaters, sweatshirts, shoes, sandals, polo shirts, socks, belts for clothing; outerwear, namely, parkas, coats, jackets, fleece tops, fleece jackets, fleece pullovers.
	4,513,656	Clothing, namely, tops, bottoms, pants, shorts, swim suits, shells, rainwear, shirts, t-shirts, performance shirts, sweaters, and sweatshirts; outerwear, namely, parkas, coats, jackets, fleece tops, fleece jackets, fleece pullovers, vests, and one-piece shell suits
	4,320,146	Clothing, namely, hats, visors, footwear, shorts, swim trunks, jackets, long sleeve t-shirts, short sleeve t-shirts, dress shirts, vests

(collectively, the "Southern Marsh Marks")

12. Each of the above-referenced marks has achieved incontestable status.

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13. Southern Marsh has established considerable trademark rights in the Southern Marsh Marks. Southern Marsh has been using the Southern Marsh Marks in commerce in connection with its clothing and accessory offerings since 2008. Southern Marsh has continuously used the Southern Marsh Marks in association with its interactive website, apparel, and accessories and has developed considerable valuable goodwill and brand recognition in association with the Southern Marsh Marks throughout the United States. The consuming public has thus come to associate the Southern Marsh Marks with Southern Marsh's high-quality goods and services.

**B. Southern Strut's Infringement**

14. Despite the nationwide consumer goodwill and brand recognition Southern Marsh has established in the Southern Marsh Marks through years of hard work and investment, Southern Strut subsequently began marketing, distributing, and selling products in the United States using marks that closely resemble the Southern Marsh Marks in a manner that is likely to cause consumer confusion.

15. Like Southern Marsh, Southern Strut sells a variety of outdoor apparel, including hats, t-shirts, and hoodies.

16. Southern Strut operates an interactive website located at [www.southernstrutbrand.com](http://www.southernstrutbrand.com), whereby consumers, including consumers located in Louisiana, can view, select, pay for, and order products for delivery into the United States and in Louisiana.

17. On certain products Southern Strut offers for sale and delivery throughout the United States, including to Louisiana residents, Southern Strut displays a duck logo (the "Infringing Duck Logo") that closely resembles the Southern Marsh Logo. Like the duck in the

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Southern Marsh Logo, the duck featured in the Infringing Duck Logo is sideward-facing, similarly shaped and is in the same sitting position with a flat base and wings on its back.

18.      Examples of the Infringing Duck Logo, as compared to the Southern Marsh Logo, are shown below:

<u>Southern Marsh Logo</u>	<u>Infringing Duck Logo</u>
	
	


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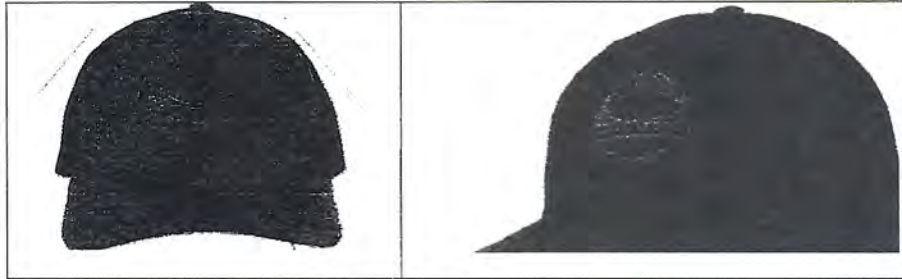
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19. The likelihood of confusion is exacerbated by the fact that Southern Strut uses a word mark, SOUTHERN STRUT (the "Infringing Word Mark"), in a manner that is confusingly similar to the SOUTHERN MARSH Word Mark.

20. Initially, the SOUTHERN MARSH Word Mark and the Infringing Word Mark contain the same first word—SOUTHERN—followed by a single-syllable five-letter word. Adding to the likelihood of confusion, Southern Strut uses the Infringing Word Mark in a confusingly similar style as Southern Marsh, as shown below:

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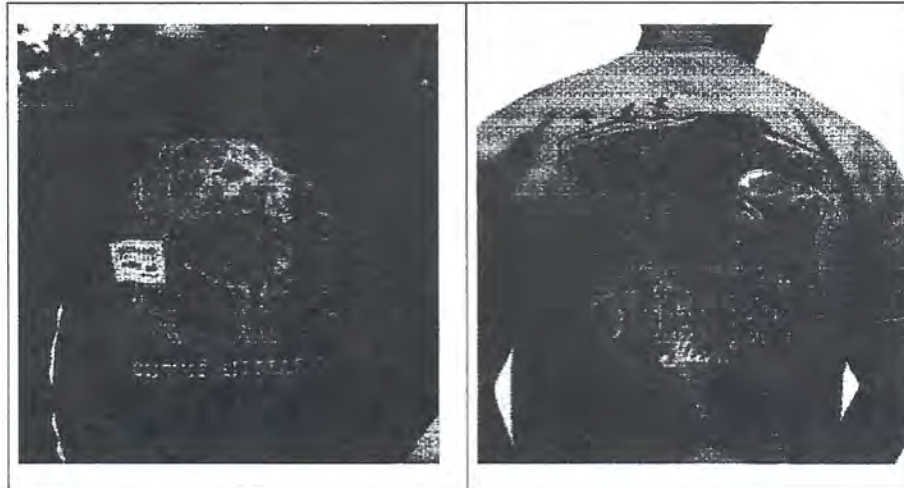


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21. Southern Strut uses the Infringing Logo and Infringing Word Mark (collectively, the “Infringing Marks”) to market and sell a similar line of products as Southern Marsh—hats, t-shirts, and hoodies—to a similar class of customers—customers interested in southern-themed casual wear, outdoor apparel, and accessories—further increasing the likelihood of consumer confusion.

22. Given these similarities, consumers are likely to be confused and believe that Southern Strut’s products are affiliated with, sponsored by, approved by, associated with, or licensed by Southern Marsh, which appears to be Southern Strut’s intent.

23. From Southern Strut’s interactive website, consumers can select and purchase products containing the Infringing Marks for shipment throughout the United States and Louisiana.

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24. Because of Southern Strut's infringement, Southern Marsh has suffered and will continue to suffer irreparable harm, the exact nature, extent, and amount of which cannot be ascertained at this time. Therefore, in addition to damages, Southern Marsh is also entitled to preliminary and permanent injunctive relief.

#### IV. CAUSES OF ACTION

##### Count One: Trademark Infringement, 15 U.S.C. § 1114

25. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

26. Southern Marsh owns U.S. Trademark Registration Nos. 4,358,000, 5,349,770, 4,494,173, 4,358,005, 4,375,212, 4,513,656, and 4,320,146 for the Southern Marsh Marks.

27. Southern Marsh has continuously used the Southern Marsh Marks in commerce and has established considerable brand recognition and goodwill with respect to the Southern Marsh Marks.

28. Southern Strut has and continues to use in commerce reproductions, counterfeits, copies, and colorable imitations of the Southern Marsh Marks in connection with the sale, offering for sale, distribution, and importation of goods, including apparel, which use is likely to cause consumer confusion, mistake, and deception in violation of 15 U.S.C. § 1114.

29. Southern Marsh has been damaged, and is likely to continue to be damaged, by Southern Strut's infringement of the Southern Marsh Marks, and Southern Marsh seeks and is entitled to recover Southern Strut's profits from the infringement and the costs of this action pursuant to 15 U.S.C. § 1117(a).

##### ORIGINAL PETITION

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30. This case is exceptional in light of Southern Strut's willful use of the Infringing Marks to sell and offer to sell products in the United States and Louisiana. Because this case is exceptional, Southern Marsh is also entitled to recover its attorneys' fees incurred pursuing this action pursuant to 15 U.S.C. § 1117(a).

**Count Two: False Designation of Origin, 15 U.S.C. § 1125(a)**

31. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

32. In addition to obtaining federal registrations for the Southern Marsh Marks, Southern Marsh has established considerable common law rights in the Southern Marsh Marks through continuous use of the Southern Marsh Marks in commerce in association with its products and services.

33. Southern Strut has sold, offered to sell, and distributed products into the United States and Louisiana displaying the Infringing Marks, including through use of Southern Strut's interactive website, which enables consumers to purchase infringing products for delivery throughout the United States and Louisiana.

34. Southern Strut's unauthorized use of the Infringing Marks is likely to cause confusion, to cause mistake, and to deceive as to the affiliation, connection, and association of Southern Strut with Southern Marsh, Southern Marsh's products, and as to the origin, sponsorship, or approval of Southern Strut's products by Southern Marsh in violation of 15 U.S.C. § 1125(a)(1)(A).

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35. Southern Marsh has no control over the nature or quality of the products sold and offered for sale by Southern Strut. Any failure, neglect, or default of Southern Strut in providing quality goods to consumers will reflect adversely upon Southern Marsh as the perceived source of origin and/or approval of the infringing products, and may also cause damage to the consuming public.

36. Southern Strut's activities have caused and, unless enjoined, will continue to cause irreparable injury to Southern Marsh and the goodwill Southern Marsh has established in its products, brand, and the Southern Marsh Marks over the years.

37. Southern Marsh has suffered and will continue to suffer substantial damage to its brand, reputation, and goodwill, and Southern Marsh seeks and is entitled to recover Southern Strut's profits from the infringement and the costs of this action pursuant to 15 U.S.C. § 1117(a).

38. Southern Strut's conduct constitutes an "exceptional" case under 15 U.S.C. § 1117(a), and Southern Marsh is entitled to recover its attorneys' fees incurred pursuing this action.

**Count Three: Trademark Dilution, La. R.S. § 51:223.1**

39. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

40. Southern Marsh is the exclusive owner of the Southern Marsh Marks.

41. The Southern Marsh Marks are distinctive and/or have acquired secondary meaning within the meaning of La. R.S. § 51:223.1. The Southern Marsh Marks are widely recognized by the general consuming public of Louisiana and the United States as the designation of the source of Southern Marsh's goods.

**ORIGINAL PETITION**

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*Kalish Burgess*



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42. Without authorization, Southern Strut began using the Infringing Marks in connection with its apparel products long after Southern Marsh established its rights in the Southern Marsh Marks.

43. Southern Strut's marketing, distribution, and sale, without authorization from Southern Marsh, of products bearing the Infringing Marks, is diluting the distinctive quality of the Southern Marsh Marks and decreasing the capacity of the Southern Marsh Marks to identify and distinguish Southern Marsh's products.

44. Southern Strut's activities, as alleged herein, both separately and collectively, have diluted or are likely to dilute the distinctive quality of the Southern Marsh Marks in violation of La. R.S. § 51:223.1.

45. As a result, Southern Marsh is entitled to injunctive relief barring Southern Strut from directly or indirectly using in commerce a reproduction, counterfeit, copy, or colorable imitation of the Southern Marsh Marks in connection with the sale, offering for sale, distribution, or importation of any goods and/or services profits.

**Count Four: Unfair Trade Practices, La. R.S. § 51:1409**

46. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

47. Southern Marsh developed the Southern Marsh Marks through the expenditure of extensive time, skill, labor and money. In connection with the sale of its goods bearing the Infringing Marks, Southern Strut has knowingly engaged in unfair methods of competition and unfair or deceptive acts or practices in violation of La. R.S. § 51:1409.

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48. Southern Strut's conduct violates established public policy and is immoral, unethical, oppressive, unscrupulous, substantially injurious to consumers, fraudulent, and deceptive.

49. By these actions, Southern Strut has exploited the reputation and goodwill associated with the Southern Marsh Marks and gained a financial benefit for itself, which has caused harm to Southern Marsh's brand, goodwill, and reputation.

50. Southern Marsh is entitled to actual damages stemming from the harm to Southern Marsh's brand, goodwill, and reputation, caused by Southern Strut's unfair methods of competition and unfair or deceptive acts or practices.

51. Pursuant to La. R.S. § 51:1409, if Southern Strut continues to use the Infringing Marks in connection with the sales of its goods, Southern Marsh will be entitled to treble damages.

52. Southern Marsh is entitled to attorneys' fees and costs as provided pursuant to La. R.S. § 51:1409.

53. Southern Strut's continuing actions will cause Southern Marsh irreparable injury for which Southern Marsh has no adequate remedy at law, entitling Southern Marsh to injunctive relief.

#### **VI. REQUEST FOR INJUNCTIVE RELIEF**

54. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

#### **ORIGINAL PETITION**

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55. Southern Strut has violated 15 U.S.C. §§ 1114 and 1125(a) and committed trademark dilution and unfair trade practices under Louisiana law, and Southern Marsh is therefore entitled to injunctive relief under 15 U.S.C. § 1116 and Louisiana law.

56. Southern Marsh requests that the Court issue preliminary and permanent injunctive relief enjoining Southern Strut and its officers, directors, agents, employees, successors, assigns and attorneys, and all other persons and entities in active concert or participation with Southern Strut who receive notice of the injunction, from doing, aiding, causing or abetting the following:

- (a) engaging in any acts or activities directly or indirectly calculated to trade upon the Southern Marsh Marks or Southern Marsh's reputation and goodwill, including any further use of the Infringing Marks or any other marks that are identical or confusingly similar to the Southern Marsh Marks in any physical or electronic medium, including, but not limited to websites, domain names, assumed business names, apparel, accessories, letterhead, social media sites, and other written, audio, or visual materials of any nature;
- (b) directly or indirectly using in commerce a reproduction, counterfeit, copy, or colorable imitation of the Southern Marsh Marks in connection with the sale, offering for sale, distribution, or importation of any goods and/or services;
- (c) directly or indirectly using any false designation of origin, false or misleading description of fact, or false or misleading representation of fact in connection with the sale of Southern Strut's products or services, including any representation that Southern Strut is affiliated with Southern Marsh;

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- (d) passing off, inducing or enabling others to sell or pass off, as products or services produced by or for or distributed with authorization of Southern Marsh, any product or service that is not the product or service of Southern Marsh, is not produced under the control or supervision of Southern Marsh, is not approved by Southern Marsh, or is not distributed with Southern Marsh's express authorization;
- (e) selling, offering to sell, distributing, or importing products into the United States that incorporate, include, or display the Infringing Marks, or any other mark that is confusingly similar to the Southern Marsh Marks; and
- (f) otherwise engaging in competition unfairly.

57. Southern Marsh will suffer immediate and irreparable damage, injury and harm for which there is no adequate remedy at law if Southern Strut is not immediately and permanently enjoined from the conduct listed above.

58. Public policy favors the protection of intellectual property rights, and the prevention of unfair competition, and any injunctive relief granted herein will therefore be in accordance with public policy.

59. The potential damage to Southern Marsh if the injunctive relief requested herein is not granted far outweighs any harm that Southern Strut will suffer as a result of the injunctive relief requested. Immediate and permanent injunctive relief is therefore appropriate.

#### **VII. JURY DEMAND**

60. Southern Marsh hereby demands a trial by jury of all claims so triable.

#### **ORIGINAL PETITION**

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**VIII. PRAYER**

WHEREFORE, Southern Marsh prays that the Court grant the following relief:

1. Order that Southern Strut and its officers, directors, agents, employees, successors, assigns and attorneys, and all persons and entities in active concert or participation with Southern Strut who receive notice of the injunction, be enjoined and restrained preliminarily during the pendency of this action, and then permanently, from doing, aiding, causing, or abetting any of the acts described in paragraph 56(a)-(f) of this Petition.
2. Order Southern Strut to file with the Court and serve upon counsel for Southern Marsh within thirty (30) days after the entry of the injunction prayed for in this Petition, a written report, sworn to under oath, setting forth in detail the manner and form in which Southern Strut has complied with the injunction;
3. Order Southern Strut to account for and pay to Southern Marsh all actual damages sustained by Southern Marsh by reason of Southern Strut's acts alleged in this Petition;
4. Order Southern Strut to account for and pay to Southern Marsh three times the actual damages sustained by Southern Marsh by reason of Southern Strut's acts alleged in this Petition pursuant to La. R.S. § 51:1409;
5. Order Southern Strut to account for and pay to Southern Marsh all profits derived by reason of Southern Strut's acts alleged in this Petition and to disgorge such profits to Southern Marsh;
6. Find that this is an "exceptional" case pursuant to 15 U.S.C. § 1117;

**ORIGINAL PETITION**

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7. Award Southern Marsh its costs of suit, including reasonable and necessary attorneys' fees and expenses pursuant to 15 U.S.C. § 1117 and La. R.S. § 51:1409;
8. Award Southern Marsh pre-judgment and post-judgment interest at the highest legal rate on all sums awarded in the Court's judgment; and
9. Award Southern Marsh such other and further relief to which it may be entitled at law or in equity.

Respectfully submitted,

HAYNES AND BOONE, L.L.P.

/s/ Michael J. Lambert

Jason Bloom (pro hac vice application forthcoming)

jason.bloom@haynesboone.com

One Victory Park

2323 Victory Avenue, Suite 700

Dallas, Texas 75219

Telephone: (214) 651-5000

Facsimile: (214) 651-5940

Michael J. Lambert

Louisiana Bar No. 36539

michael.lambert@haynesboone.com

600 Congress Avenue, Suite 1300

Austin, Texas 78701

Telephone: (512) 867-8400

Facsimile: (512) 867-8470

ATTORNEYS FOR PLAINTIFF  
SOUTHERN MARSH COLLECTION,  
LLC

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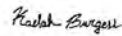


**PLEASE SERVE:**

Red Horse Screen Printing, Inc. d/b/a Southern Strut  
1975 Dulsey Rd. #1A  
Charleston, SC 29407

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**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

SOUTHERN MARSH  
COLLECTION, LLC

Plaintiff,

v.

RED HORSE SCREEN PRINTING, INC.  
d/b/a SOUTHERN STRUT

Defendant.

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CIVIL ACTION NO. 3:23-cv-01297-BAJ-EWD

**FIRST AMENDED COMPLAINT**

Plaintiff Southern Marsh Collection, LLC files this First Amended Complaint against Defendant Red Horse Screen Printing, Inc. d/b/a Southern Strut and respectfully states as follows:

**I. PARTIES**

1. Plaintiff Southern Marsh Collection, LLC (“Southern Marsh”) is a limited liability company duly organized and existing under the laws of the State of Louisiana with its principal place of business at 2507 Highland Road, Baton Rouge, Louisiana 70802.

2. Defendant Red Horse Screen Printing, Inc. d/b/a Southern Strut (“Southern Strut”) is a corporation organized under the laws of South Carolina with an address at 1975 Dulsey Rd. #1A, Charleston, SC 29407.

**II. JURISDICTION AND VENUE**

3. Subject-matter jurisdiction is proper in this Court under 28 U.S.C. §§ 1331 and 1338(a) because this action involves claims of trademark infringement arising under federal law.

4. The court has personal jurisdiction over Southern Strut because Southern Strut has committed acts which have reasonably foreseeable consequences in Louisiana, including causing injury or damages in this state, by marketing, advertising, and offering to sell and, on information

**FIRST AMENDED COMPLAINT**

and belief, selling infringing products to Louisiana residents. Southern Strut owns and/or operates an interactive website and social media accounts whereby Southern Strut can interact with Louisiana residents and whereby infringing products can be and, on information and belief, have been ordered, sold, and shipped into Louisiana and to Louisiana residents. Southern Strut has, in fact, specifically marketed products to Louisiana residents, including by creating and selling products featuring the Louisiana state flag and Louisiana-centric themes, and by using #louisiana in social media advertisements to draw attention to its products from Louisiana residents. Southern Strut has also, on information and belief, corresponded with Louisiana residents, offering to sell Louisiana-themed products to them. Southern Strut also offers infringing products for sale to Louisiana residents through third-party retailers with a substantial presence in Louisiana, such as Walmart<sup>1</sup> and Amazon,<sup>2</sup> and through online retailers, including Southern Clothing,<sup>3</sup> Palmetto Moon,<sup>4</sup> Stubbs,<sup>5</sup> and Poshmark.<sup>6</sup>

5. Venue is proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Southern Marsh's claims occurred in this District. Wrongful conduct occurred in this District and damages were sustained by Southern Marsh in this District

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<sup>1</sup> See <https://www.walmart.com/c/kp/southern-strut-hats> (last visited Oct. 11, 2023).

<sup>2</sup> See [https://www.amazon.com/Clothing-Shoes-Jewelry-SOUTHERN-STRUT/s?rh=n%3A7141123011%2Cp\\_4%3ASOUTHERN+STRUT](https://www.amazon.com/Clothing-Shoes-Jewelry-SOUTHERN-STRUT/s?rh=n%3A7141123011%2Cp_4%3ASOUTHERN+STRUT) (last visited Oct. 11, 2023).

<sup>3</sup> See <https://www.southernclimbing.com/home/southern-brands/southern-strut> (last visited Oct. 11, 2023).

<sup>4</sup> See [https://www.palmettomoononline.com/collections/southern-strut?gclid=Cj0KCQjwpompBhDZARIsAFD\\_Fp-vGdXXhmxMJPSfak78sv4IHVZXtN7LYVZMHN\\_hVqe1Bv4QsvtTbzQaAiouEALw\\_wcB](https://www.palmettomoononline.com/collections/southern-strut?gclid=Cj0KCQjwpompBhDZARIsAFD_Fp-vGdXXhmxMJPSfak78sv4IHVZXtN7LYVZMHN_hVqe1Bv4QsvtTbzQaAiouEALw_wcB) (last visited Oct. 11, 2023).

<sup>5</sup> See <https://stubbsdeptstore.com/collections/southern-strut> (last visited Oct. 11, 2023).

<sup>6</sup> See [https://poshmark.com/brand/Southern%20Strut?utm\\_source=gsdm&utm\\_campaign=12306679604&campaign\\_id=12306679604&ad\\_partner=google&gskid=dsa-19959388920&gclid=609751783097&ggid=121301500447&gdid=c&g\\_network=g&enable\\_guest\\_buy\\_flow=true&gclid=CjwKCAjwyY6pBhA9EiwAMzmfwB26aDaRF5hkvYQMA9WbEVAy1BSyvQnBMVQ5pxrSxMf-FihK6E3iGxoCj2wQAvD\\_BwE](https://poshmark.com/brand/Southern%20Strut?utm_source=gsdm&utm_campaign=12306679604&campaign_id=12306679604&ad_partner=google&gskid=dsa-19959388920&gclid=609751783097&ggid=121301500447&gdid=c&g_network=g&enable_guest_buy_flow=true&gclid=CjwKCAjwyY6pBhA9EiwAMzmfwB26aDaRF5hkvYQMA9WbEVAy1BSyvQnBMVQ5pxrSxMf-FihK6E3iGxoCj2wQAvD_BwE) (last visited Oct. 11, 2023).

by way of Southern Strut's marketing and possible sales and shipment of infringing products into this District, where Southern Marsh resides. Venue is also possible pursuant to 28 U.S.C. § 1391(b)(1), (c)(2), because Southern Strut is subject to personal jurisdiction in this district.

### **III. FACTUAL BACKGROUND**

#### **A. Southern Marsh and Its Trademarks**

6. Founded in 2007, Southern Marsh is in the business of designing and selling a wide variety of outdoor apparel and accessories, including hats, t-shirts, and hoodies, among many other products.

7. Southern Marsh sells its unique products in its own brick and mortar boutiques, in retail stores throughout the country, and online to customers around the world through its website located at [www.southernmarsh.com](http://www.southernmarsh.com).

8. Throughout its website, in its retail stores, on its marketing materials, and on numerous items of its unique Southern Marsh branded apparel and accessories, Southern Marsh displays its unique duck-style logo, depicted below, which has come to be known as a source identifier for Southern Marsh's high-quality products:



(the "Southern Marsh Logo").

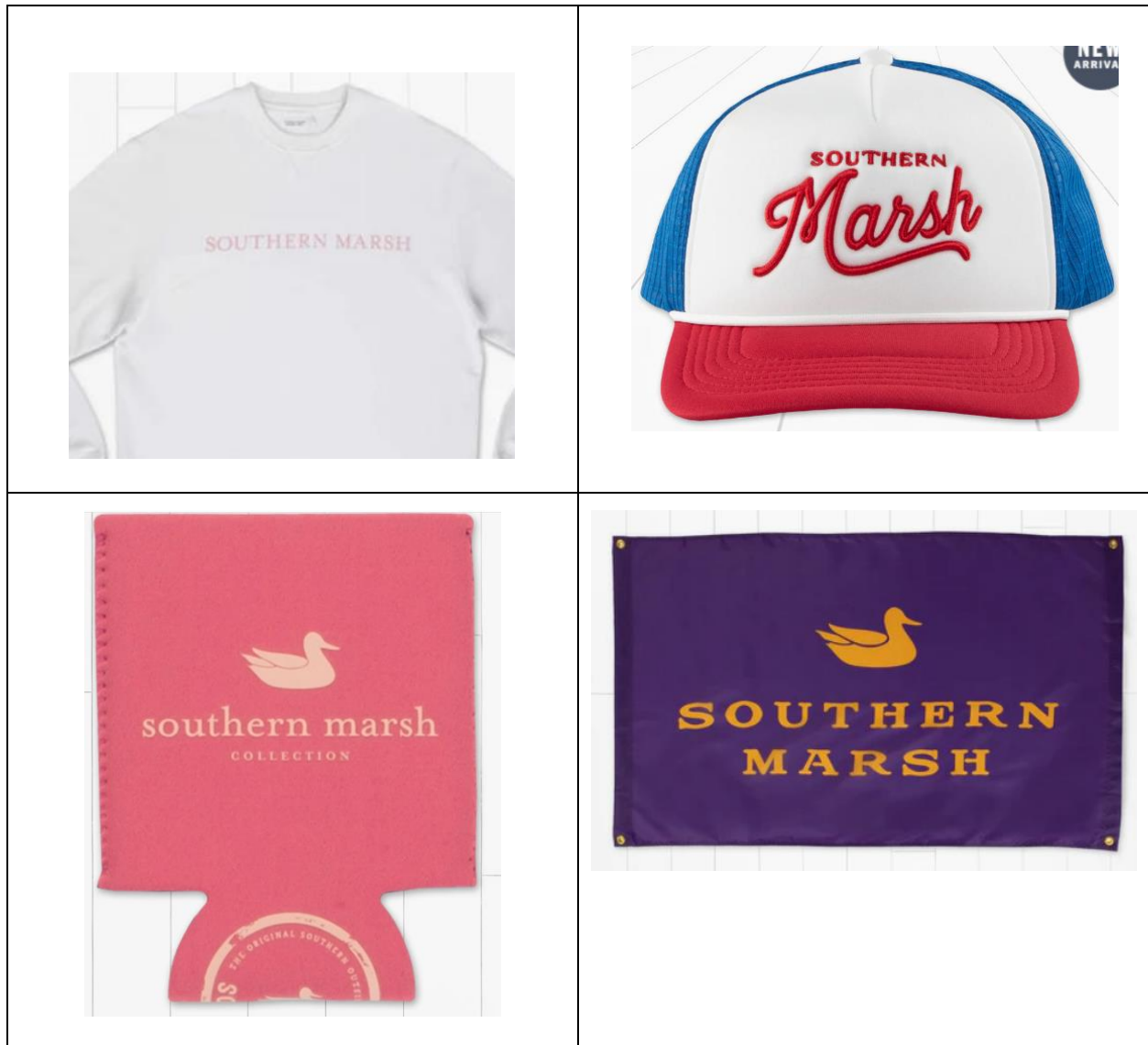
9. Examples of products featuring the Southern Marsh Logo are shown below:



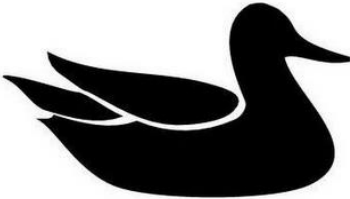






10. In addition to the Southern Marsh Logo, Southern Marsh uses the SOUTHERN MARSH word mark in association with the marketing and sale of its products (“SOUTHERN MARSH Word Mark”). Examples of products featuring the SOUTHERN MARSH Word Mark are shown below:





11. In addition to owning substantial common law rights in the Southern Marsh Logo and the SOUTHERN MARSH Word Mark, Southern Marsh owns several U.S. Trademark Registrations for its family of trademarks, including the Southern Marsh Logo and the SOUTHERN MARSH Word Mark, as shown below:

<u>Mark</u>	<u>U.S. TM Reg. No.</u>	<u>Description of Goods</u>
<b>SOUTHERN MARSH</b>	4,358,000	Clothing, namely, tops, bottoms; pants, shorts, swim suits, shells, hats, visors, rainwear, dress shirts, performance shirts, sweaters, sweatshirts, [ shoes, ] sandals, polo shirts, [ socks, ] belts for clothing; outerwear, namely, [ parkas, ] coats, jackets, fleeces, vests.
<b>SOUTHERN MARSH</b>	5,349,770	Eyewear retainers; computer carrying case; stickers; travel kit bags, sold empty; thermal insulated containers for beverages; polyester and fleece blankets.
	4,494,173	Clothing, namely, tops, bottoms, pants, shorts, swim suits, shells, hats, visors, rainwear, shirts, t-shirts, dress shirts, performance shirts, sweaters, sweatshirts, shoes, footwear, sandals, polo shirts, underwear, boxers, socks, and belts for clothing; outerwear, namely, parkas, coats, jackets, fleece tops, fleece jackets, fleece pullovers, vests, and one-piece shell suits
 southern marsh	4,358,005	Clothing, namely, tops, bottoms; pants, shorts, swim suits, shells, hats, visors, rainwear, shirts, t-shirts, dress shirts, performance shirts, sweaters, sweatshirts,

		shoes, sandals, polo shirts, socks, belts for clothing; outerwear, namely, parkas, coats, jackets, fleeces, vests.
	4,375,212	Clothing, namely, tops, bottoms; pants, shorts, swim suits, shells, hats, visors, rainwear, shirts, t-shirts, dress shirts, performance shirts, sweaters, sweatshirts, shoes, sandals, polo shirts, socks, belts for clothing; outerwear, namely, parkas, coats, jackets, fleece tops, fleece jackets, fleece pullovers.
	4,513,656	Clothing, namely, tops, bottoms, pants, shorts, swim suits, shells, rainwear, shirts, t-shirts, performance shirts, sweaters, and sweatshirts; outerwear, namely, parkas, coats, jackets, fleece tops, fleece jackets, fleece pullovers, vests, and one-piece shell suits
	4,320,146	Clothing, namely, hats, visors, footwear, shorts, swim trunks, jackets, long sleeve t-shirts, short sleeve t-shirts, dress shirts, vests

(collectively, the “Southern Marsh Marks”)

12. Each of the above-referenced marks has achieved incontestable status.

#### **FIRST AMENDED COMPLAINT**



13. Southern Marsh has established considerable trademark rights in the Southern Marsh Marks. Southern Marsh has been using the Southern Marsh Marks in commerce in connection with its clothing and accessory offerings since 2008. Southern Marsh has continuously used the Southern Marsh Marks in association with its interactive website, apparel, and accessories and has developed considerable valuable goodwill and brand recognition in association with the Southern Marsh Marks throughout the United States. The consuming public has thus come to associate the Southern Marsh Marks with Southern Marsh's high-quality goods and services.

**B. Southern Strut's Infringement**

14. Despite the nationwide consumer goodwill and brand recognition Southern Marsh has established in the Southern Marsh Marks through years of hard work and investment, Southern Strut subsequently began marketing, distributing, and selling products in the United States using marks that closely resemble the Southern Marsh Marks in a manner that is likely to cause consumer confusion.

15. Like Southern Marsh, Southern Strut sells a variety of outdoor apparel, including hats, t-shirts, and hoodies.

16. Southern Strut operates an interactive website located at [www.southernstrutbrand.com](http://www.southernstrutbrand.com), whereby consumers, including consumers located in Louisiana, can view, select, pay for, and order products for delivery into Louisiana.

17. On certain products Southern Strut offers for sale and delivery throughout the United States, including to Louisiana residents, Southern Strut displays a duck logo (the "Infringing Duck Logo") that closely resembles the Southern Marsh Logo. Like the duck in the Southern Marsh Logo, the duck featured in the Infringing Duck Logo is sideward-facing, similarly shaped and is in the same sitting position with a flat base and wings on its back.

18. Examples of the Infringing Duck Logo, as compared to the Southern Marsh Logo, are shown below:

<u>Southern Marsh Logo</u>	<u>Infringing Duck Logo</u>
	
	
	

19. The likelihood of confusion is exacerbated by the fact that Southern Strut uses a word mark, SOUTHERN STRUT (the “Infringing Word Mark”), in a manner that is confusingly similar to the SOUTHERN MARSH Word Mark.

20. Initially, the SOUTHERN MARSH Word Mark and the Infringing Word Mark contain the same first word—SOUTHERN—followed by a single-syllable five-letter word. Adding to the likelihood of confusion, Southern Strut uses the Infringing Word Mark in a confusingly similar style as Southern Marsh uses the SOUTHERN MARSH Mark, as shown below:

<u><b>Southern Marsh Use Examples</b></u>	<u><b>Southern Strut Use Examples</b></u>
	







21. Southern Strut uses the Infringing Logo and Infringing Word Mark (collectively, the “Infringing Marks”) to market and sell a similar line of products as Southern Marsh—hats, t-shirts, and hoodies—to a similar class of customers—customers interested in southern-themed

# FIRST AMENDED COMPLAINT

casual wear, outdoor apparel, and accessories—further increasing the likelihood of consumer confusion.

22. Given these similarities, consumers are likely to be confused and believe that Southern Strut's products are affiliated with, sponsored by, approved by, associated with, or licensed by Southern Marsh, which appears to be Southern Strut's intent.

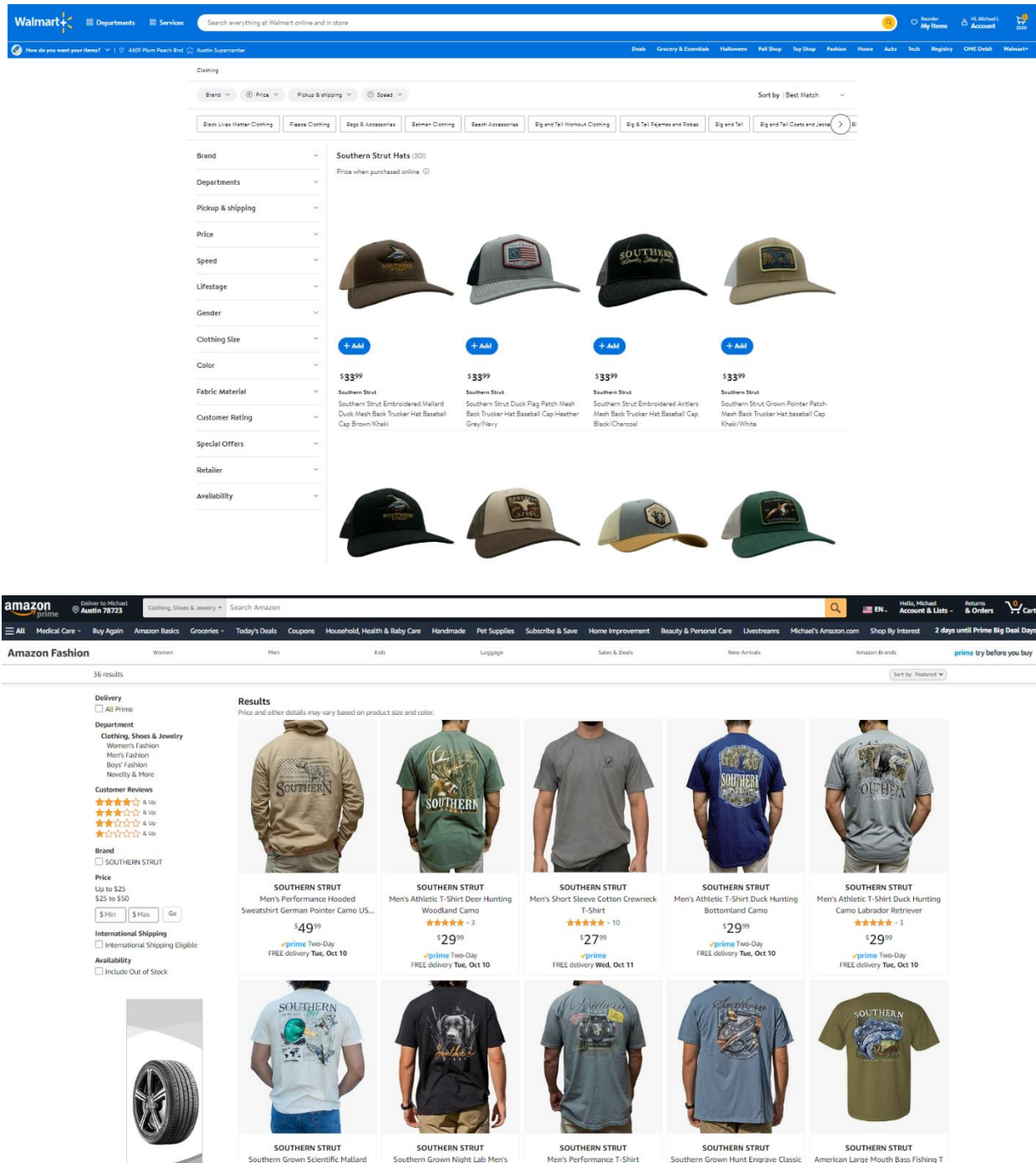
23. From Southern Strut's interactive website, consumers, including consumers in Louisiana, can select and purchase products containing the Infringing Marks for shipment into Louisiana:

The screenshot displays the Southern Strut checkout page. The left sidebar contains a 'Contact' section with an email input field and a checkbox for 'Email me with news and offers'. Below this is a 'Delivery' section with a dropdown for 'Country/Region' (set to 'United States'), input fields for 'First name' and 'Last name', a 'Company (optional)' field, an 'Address' field with a search icon, and a note to 'Add apartment, suite, etc.'. Further down are fields for 'City' (Baton Rouge), 'State' (Louisiana), 'ZIP code', and 'Phone'. A 'Shipping method' section follows, with a note about 2-3 handling days and a button to 'Enter your shipping address to view available shipping methods.'. The right sidebar shows a cart with three items: 'Camo Logo Sticker' for \$9.98, 'Youth Mossy Oak Flag SMALL / Sand' for \$39.90, and 'Duck & Calls Woven Khaki/White' for \$30.00 (originally \$40.00 with a 25% discount). A 'Discount code or gift card' field with an 'Apply' button is present. The cart summary shows a 'Subtotal' of \$79.88, a 'Shipping' section with a link to 'Enter shipping address', and a 'Total' of USD \$79.88.

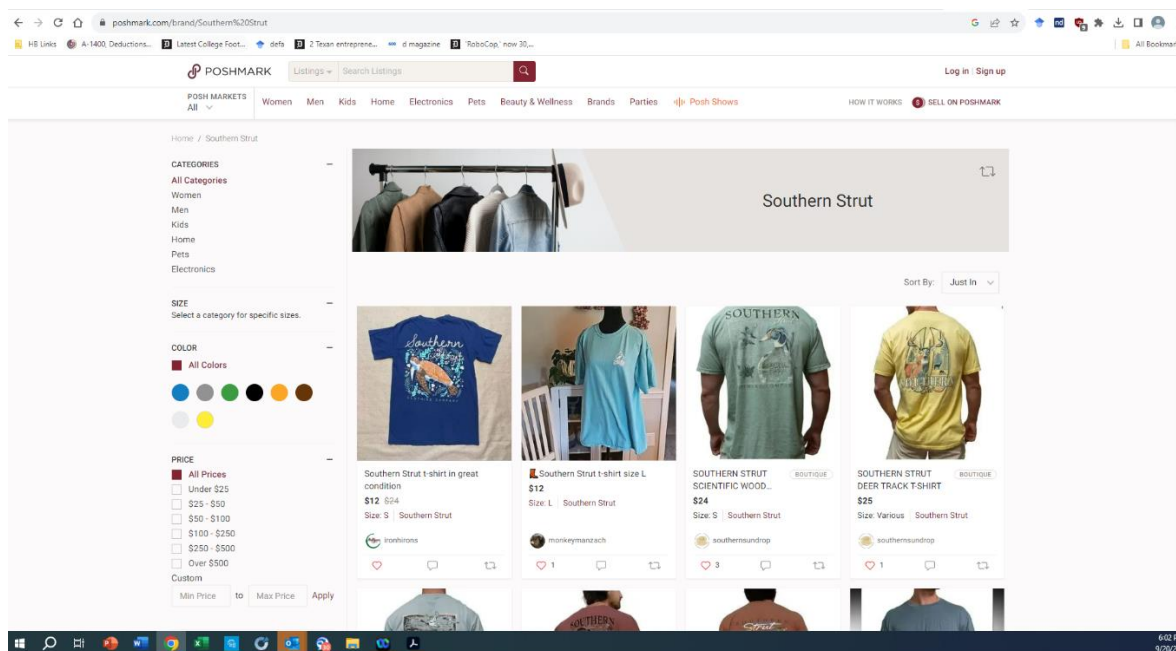
Item	Price
Camo Logo Sticker	\$9.98
Youth Mossy Oak Flag SMALL / Sand	\$39.90
Duck & Calls Woven Khaki/White (25% HATS (-\$10.00))	\$30.00
<b>Subtotal</b>	<b>\$79.88</b>
<b>Total</b>	<b>USD \$79.88</b>

24. Consumers, including consumers in Louisiana, can also select and purchase products containing the Infringing Marks for shipment throughout the United States and Louisiana through the interactive websites of at least six third-party retailers, including Walmart, Amazon,

Southern Clothing, Palmetto Moon, Stubbs, and Poshmark. Examples of Southern Strut product offerings through some of these retailers are shown below:



**FIRST AMENDED COMPLAINT**



25. Southern Strut also advertises on its website that it sells its t-shirts “at many retailers throughout the south.”<sup>7</sup>

26. Southern Strut markets and advertises its products to consumers, including consumers in Louisiana, through interactive social media accounts, such as Instagram<sup>8</sup> and Facebook,<sup>9</sup> whereby Southern Strut can communicate with Louisiana residents.

27. Southern Strut frequently directs its social media posts to consumers in Louisiana by including the hashtag “#louisiana” in its Facebook and Instagram posts, as shown below. *See, e.g.,* February 18, 2022 post;<sup>10</sup> January 9, 2022 post;<sup>11</sup> October 21, 2021 post.<sup>12</sup>

<sup>7</sup> See <https://southernstrutbrand.com/pages/faqs> (last visited Oct. 11, 2023).

<sup>8</sup> See <https://www.instagram.com/southernstrutbrand> (last visited Oct. 11, 2023).

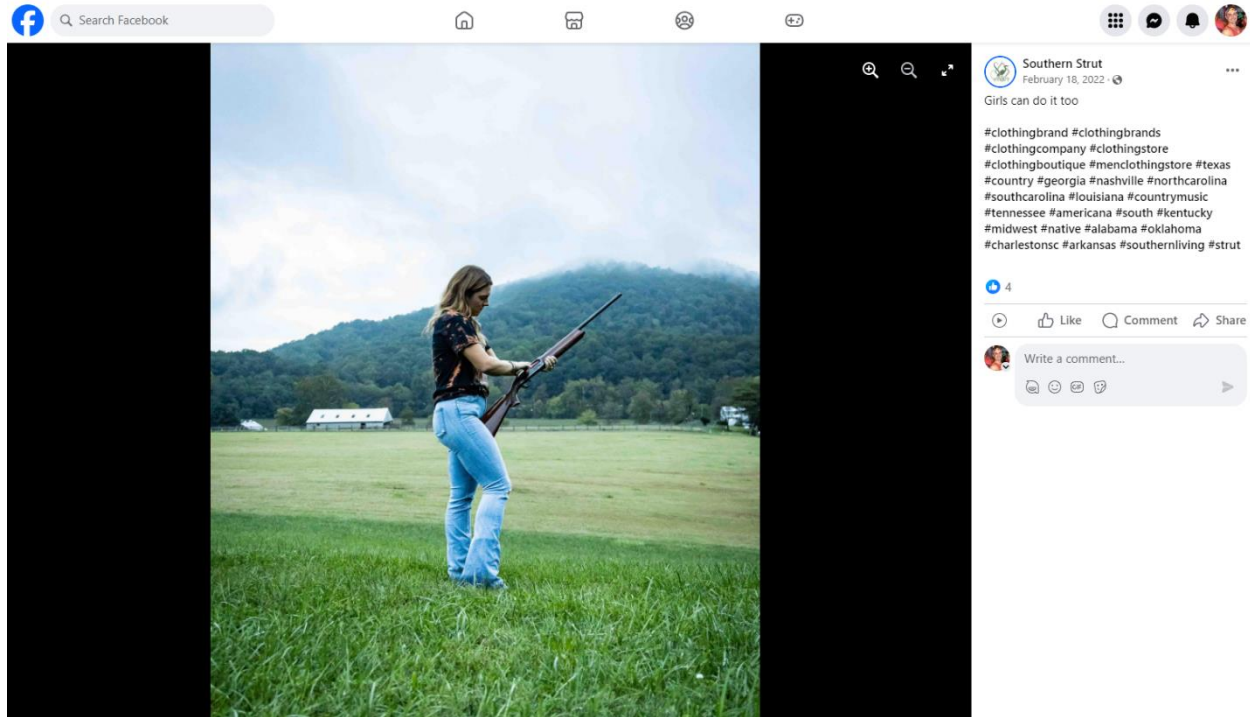
<sup>9</sup> See <https://www.facebook.com/southernstrutbrand> (last visited Oct. 11, 2023).

<sup>10</sup> See <https://www.facebook.com/southernstrutbrand/photos/a.1975419712756185/2879703698994444/> (last visited Oct. 11, 2023).

<sup>11</sup> See <https://www.facebook.com/southernstrutbrand/photos/a.1975419712756185/2853251214973026/?type=3> (last visited Oct. 11, 2023).

<sup>12</sup> See <https://www.facebook.com/southernstrutbrand/posts/pfbid02RvdGTvAfKRcz3ftigbVoZ4Tkes5gLoZTHcfkTSviNZ57zu9ErAjp8aZV9VNVupMnl> (last visited Oct. 11, 2023).







**Southern Strut**

February 18, 2022 · 🌐

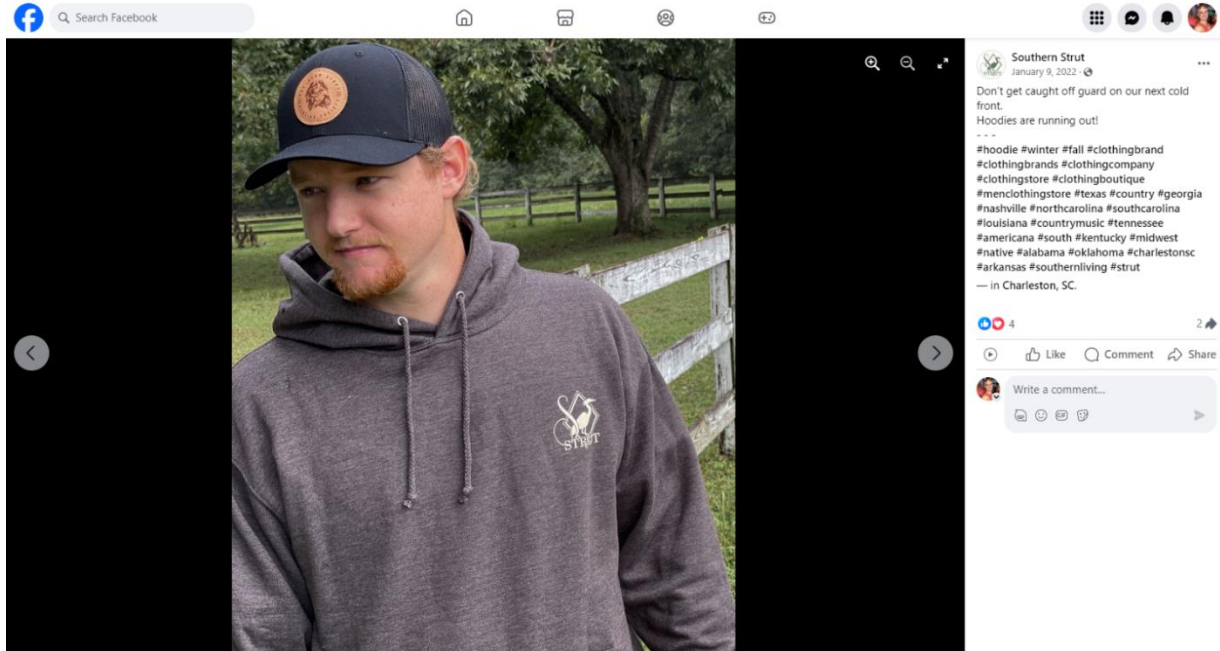
Girls can do it too

#clothingbrand #clothingbrands  
 #clothingcompany #clothingstore  
 #clothingboutique #menclotingstore #texas  
 #country #georgia #nashville #northcarolina  
 #southcarolina #louisiana #countrymusic  
 #tennessee #americana #south #kentucky  
 #midwest #native #alabama #oklahoma  
 #charlestonsc #arkansas #southernliving #strut

👍 4

---


 Like
  Comment
  Share





**Southern Strut**  
 January 9, 2022 · 🌐

Don't get caught off guard on our next cold front.  
 Hoodies are running out!

---

#hoodie #winter #fall #clothingbrand  
 #clothingbrands #clothingcompany  
 #clothingstore #clothingboutique  
 #menclothingstore #texas #country #georgia  
 #nashville #northcarolina #southcarolina  
 #louisiana #countrymusic #tennessee  
 #americana #south #kentucky #midwest  
 #native #alabama #oklahoma #charlestonsc  
 #arkansas #southernliving #strut  
 — in Charleston, SC.



4


 Like
  Comment
  Share



29. The purpose of a hastag is to draw interest and traffic from certain groups and geographic locations based on common interests and trending themes.

28. Southern Strut has sold products targeted at Louisiana residents, including a t-shirt featuring the Louisiana state flag,<sup>13</sup> a t-shirt featuring “Flags from the South,”<sup>14</sup> which includes the

<sup>13</sup> See [https://www.instagram.com/p/CFhkXdHhHcU/?hl=en&img\\_index=2](https://www.instagram.com/p/CFhkXdHhHcU/?hl=en&img_index=2) (last visited Oct. 11, 2023).

<sup>14</sup> See <https://www.instagram.com/p/CAa0HV-gcFS/?hl=en> (last visited Oct. 11, 2023).

#### **FIRST AMENDED COMPLAINT**

Louisiana state flag, and a t-shirt<sup>15</sup> raising money for hurricane relief efforts in Louisiana, as shown below.

29. An Instagram post promoting the t-shirt featuring the Louisiana state flag states:

  STATE PRIDE GIVEAWAY WEEK  
 

In honor of the successful return of College Football and a little taste of normalcy, we are doing a State Pride giveaway every day this week leading up to College Football Saturday! Today's giveaway is for all you cajuns out there is Louisiana!

Whether you're waving your towel for LSU, Tulane, or even Grambling - these tees are for you! To win here's what you gotta do to win BOTH of these tees!

- 1: TAG a friend!
- 2: FOLLOW us on Instagram
- 3: LIKE our page on FB!

It's that simple! We'll be announcing the winners throughout the week!  
Good luck!

.....

#southernstrut #walktall #southerngrown #southern #southernpride  
#southerncharm #apparel #clothing #ootd #southernstyle #southernmemes  
#giveaway #contest #free #win #contestgiveaway #football #collegefootball #lsu  
#lsufootball #lsutigers #louisiana #cajun #gramblingstateuniversity #tulane  
#neworleans #neworleansculture #cajuncountry

<sup>15</sup> See <https://www.instagram.com/p/CE4gSdqh36H/?hl=en> (last visited Oct. 11, 2023).



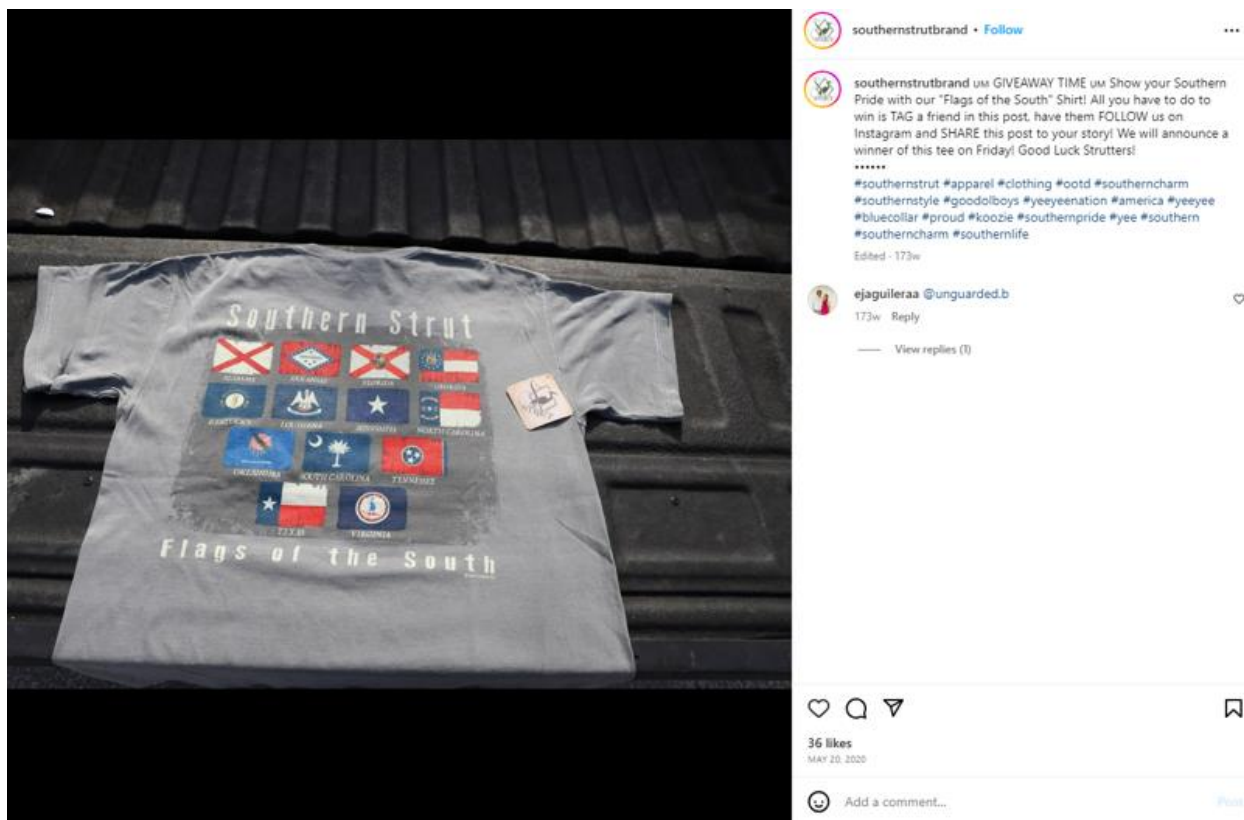


30. An Instagram post promoting the t-shirt featuring “Flags from the South,” which includes the Louisiana state flag, states:

GIVEAWAY TIME Show your Southern Pride with our "Flags of the South" Shirt! All you have to do to win is TAG a friend in this post, have them FOLLOW us on Instagram and SHARE this post to your story! We will announce a winner of this tee on Friday! Good Luck Strutters!

\*\*\*\*\*

#southernstrut #apparel #clothing #ootd #southerncharm #southernstyle #goodolboys #yeeyeenation #america #yeeyee #bluecollar #proud #koozie #southernpride #yee #southern #southerncharm #southernlife



31. An Instagram post promoting the t-shirt raising money for hurricane relief efforts in Louisiana states:

No matter what state we're from, or where we grew up, we're all American, and we're all in this together. That's why for the rest of the month, we will be donating 15% of all sales of our State Flag and Word Lab tees to the Red Cross Hurricane Laura Relief Fund.

You can show your home state pride and show the endurance of the American spirit by helping the displaced families and those in need from the storms that ravaged the coast of Louisiana!

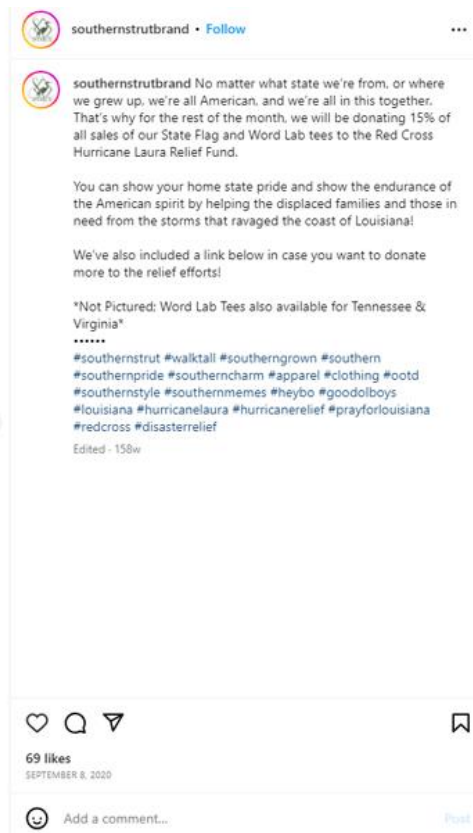
We've also included a link below in case you want to donate more to the relief efforts!

\*Not Pictured; Word Lab Tees also available for Tennessee & Virginia\*

\*\*\*\*\*

#southernstrut #walktall #southerngrown #southern #southernpride  
 #southerncharm #apparel #clothing #ootd #southernstyle #southernmemes #heybo  
 #goodolboys #louisiana #hurricanelaura #hurricanerelief #prayforlouisiana  
 #redcross #disasterrelief, as shown below:

## FIRST AMENDED COMPLAINT



32. Southern Strut has communicated online with at least one Louisiana resident interested in purchasing Southern Strut’s products, as shown below. In a comment to August 27, 2020 Facebook post<sup>16</sup> promoting Southern Strut’s Louisiana state flag t-shirt, Betz Holdeman asked, “do yall still make this shirt?” A representative from Southern Strut responded to Ms. Holdeman’s comment, stating that Southern Strut still has the t-shirt in stock and that she should send Southern Strut “a message with [her] size and address,” which would presumably be in Louisiana. Ms. Holdeman’s Facebook profile<sup>17</sup> states that she lives in Crowley, Louisiana.

<sup>16</sup> See [https://www.facebook.com/southernstrutbrand/photos/a.1505050246459803/2504421079856043/?type=3&paipv=0&eav=AfYE35S8h37jSGg2ZN6FEXFHn7iLOdHuiZa9OvvE-vV1deRtxmPsP8zLgfj0t8qCEYw&\\_rdr](https://www.facebook.com/southernstrutbrand/photos/a.1505050246459803/2504421079856043/?type=3&paipv=0&eav=AfYE35S8h37jSGg2ZN6FEXFHn7iLOdHuiZa9OvvE-vV1deRtxmPsP8zLgfj0t8qCEYw&_rdr) (last visited Oct. 11, 2023).

<sup>17</sup> See [https://www.facebook.com/betz.holdeman?comment\\_id=Y29tbWVudDoyNTA0NDIxMDc5ODU2MDQzXzEzMdG4MzgyNmMwNDMxMzQ%3D](https://www.facebook.com/betz.holdeman?comment_id=Y29tbWVudDoyNTA0NDIxMDc5ODU2MDQzXzEzMdG4MzgyNmMwNDMxMzQ%3D) (last visited Oct. 11, 2023).



 **Southern Strut**  
August 27, 2020 · 🌐

We've got Louisiana heavy on our minds today.  
Stay safe out there, you will weather this storm.  
🙏

👍❤️ 4 2 💬 1 ➦

🎥 Like Comment Share

Most relevant ▾

 **Betz Holdeman**  
do yall still make this shirt?  
Like Reply 15w

 **Author**  
**Southern Strut**  
Betz Holdeman We don't but we still have stock! Send us a message with your size and address!  
Like Reply 15w



33. Because of Southern Strut's infringement, Southern Marsh has suffered and will continue to suffer irreparable harm in Louisiana, the exact nature, extent, and amount of which cannot be ascertained at this time. Therefore, in addition to damages, Southern Marsh is also entitled to preliminary and permanent injunctive relief.

#### **IV. CAUSES OF ACTION**

##### **Count One: Trademark Infringement, 15 U.S.C. § 1114**

34. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

35. Southern Marsh owns U.S. Trademark Registration Nos. 4,358,000, 5,349,770, 4,494,173, 4,358,005, 4,375,212, 4,513,656, and 4,320,146 for the Southern Marsh Marks.

36. Southern Marsh has continuously used the Southern Marsh Marks in commerce and has established considerable brand recognition and goodwill with respect to the Southern Marsh Marks.

37. Southern Strut has and continues to use in commerce reproductions, counterfeits, copies, and colorable imitations of the Southern Marsh Marks in connection with the sale, offering for sale, distribution, and importation of goods, including apparel, which use is likely to cause consumer confusion, mistake, and deception in violation of 15 U.S.C. § 1114.

38. Southern Marsh has been damaged, and is likely to continue to be damaged, by Southern Strut's infringement of the Southern Marsh Marks, and Southern Marsh seeks and is entitled to recover Southern Strut's profits from the infringement and the costs of this action pursuant to 15 U.S.C. § 1117(a).

39. This case is exceptional in light of Southern Strut's willful use of the Infringing Marks to sell and offer to sell products in the United States and Louisiana. Because this case is

exceptional, Southern Marsh is also entitled to recover its attorneys' fees incurred pursuing this action pursuant to 15 U.S.C. § 1117(a).

**Count Two: False Designation of Origin, 15 U.S.C. § 1125(a)**

40. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

41. In addition to obtaining federal registrations for the Southern Marsh Marks, Southern Marsh has established considerable common law rights in the Southern Marsh Marks through continuous use of the Southern Marsh Marks in commerce in association with its products and services.

42. Southern Strut has sold, offered to sell, and distributed products into the United States and Louisiana displaying the Infringing Marks, including through use of Southern Strut's interactive website and the interactive websites of third-party retailers, which enable consumers to purchase infringing products for delivery throughout the United States and Louisiana.

43. Southern Strut's unauthorized use of the Infringing Marks is likely to cause confusion, to cause mistake, and to deceive as to the affiliation, connection, and association of Southern Strut with Southern Marsh, Southern Marsh's products, and as to the origin, sponsorship, or approval of Southern Strut's products by Southern Marsh in violation of 15 U.S.C. § 1125(a)(1)(A).

44. Southern Marsh has no control over the nature or quality of the products sold and offered for sale by Southern Strut. Any failure, neglect, or default of Southern Strut in providing quality goods to consumers will reflect adversely upon Southern Marsh as the perceived source of origin and/or approval of the infringing products, and may also cause damage to the consuming public.

45. Southern Strut's activities have caused and, unless enjoined, will continue to cause irreparable injury to Southern Marsh and the goodwill Southern Marsh has established in its products, brand, and the Southern Marsh Marks over the years.

46. Southern Marsh has suffered and will continue to suffer substantial damage to its brand, reputation, and goodwill, and Southern Marsh seeks and is entitled to recover Southern Strut's profits from the infringement and the costs of this action pursuant to 15 U.S.C. § 1117(a).

47. Southern Strut's conduct constitutes an "exceptional" case under 15 U.S.C. § 1117(a), and Southern Marsh is entitled to recover its attorneys' fees incurred pursuing this action.

**Count Three: Trademark Dilution, La. R.S. § 51:223.1**

48. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

49. Southern Marsh is the exclusive owner of the Southern Marsh Marks.

50. The Southern Marsh Marks are distinctive and/or have acquired secondary meaning within the meaning of La. R.S. § 51:223.1. The Southern Marsh Marks are widely recognized by the general consuming public of Louisiana and the United States as the designation of the source of Southern Marsh's goods.

51. Without authorization, Southern Strut began using the Infringing Marks in connection with its apparel products long after Southern Marsh established its rights in the Southern Marsh Marks.

52. Southern Strut's marketing, distribution, and sale, without authorization from Southern Marsh, of products bearing the Infringing Marks, is diluting the distinctive quality of the Southern Marsh Marks and decreasing the capacity of the Southern Marsh Marks to identify and distinguish Southern Marsh's products.

**FIRST AMENDED COMPLAINT**

53. Southern Strut's activities, as alleged herein, both separately and collectively, have diluted or are likely to dilute the distinctive quality of the Southern Marsh Marks in violation of La. R.S. § 51:223.1.

54. As a result, Southern Marsh is entitled to injunctive relief barring Southern Strut from directly or indirectly using in commerce a reproduction, counterfeit, copy, or colorable imitation of the Southern Marsh Marks in connection with the sale, offering for sale, distribution, or importation of any goods and/or services.

**Count Four: Unfair Trade Practices, La. R.S. § 51:1409**

55. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

56. Southern Marsh developed the Southern Marsh Marks through the expenditure of extensive time, skill, labor and money. In connection with the sale of its goods bearing the Infringing Marks, Southern Strut has knowingly engaged in unfair methods of competition and unfair or deceptive acts or practices in violation of La. R.S. § 51:1409.

57. Southern Strut's conduct violates established public policy and is immoral, unethical, oppressive, unscrupulous, substantially injurious to consumers, fraudulent, and deceptive.

58. By these actions, Southern Strut has exploited the reputation and goodwill associated with the Southern Marsh Marks and gained a financial benefit for itself, which has caused harm to Southern Marsh's brand, goodwill, and reputation.

59. Southern Marsh is entitled to actual damages stemming from the harm to Southern Marsh's brand, goodwill, and reputation, caused by Southern Strut's unfair methods of competition and unfair or deceptive acts or practices.

**FIRST AMENDED COMPLAINT**



60. Pursuant to La. R.S. § 51:1409, if Southern Strut continues to use the Infringing Marks in connection with the sales of its goods, Southern Marsh will be entitled to treble damages.

61. Southern Marsh is entitled to attorneys' fees and costs as provided pursuant to La. R.S. § 51:1409.

62. Southern Strut's continuing actions will cause Southern Marsh irreparable injury for which Southern Marsh has no adequate remedy at law, entitling Southern Marsh to injunctive relief.

## **VI. REQUEST FOR INJUNCTIVE RELIEF**

63. Southern Marsh reincorporates by reference the allegations in the foregoing paragraphs, inclusive, as if the same were set out here in full.

64. Southern Strut has violated 15 U.S.C. §§ 1114 and 1125(a) and committed trademark dilution and unfair trade practices under Louisiana law, and Southern Marsh is therefore entitled to injunctive relief under 15 U.S.C. § 1116.

65. Southern Marsh requests that the Court issue preliminary and permanent injunctive relief enjoining Southern Strut and its officers, directors, agents, employees, successors, assigns and attorneys, and all other persons and entities in active concert or participation with Southern Strut who receive notice of the injunction, from doing, aiding, causing or abetting the following:

- (a) engaging in any acts or activities directly or indirectly calculated to trade upon the Southern Marsh Marks or Southern Marsh's reputation and goodwill, including any further use of the Infringing Marks or any other marks that are identical or confusingly similar to the Southern Marsh Marks in any physical or electronic medium, including, but not limited to websites, domain names, assumed business

names, apparel, accessories, letterhead, social media sites, and other written, audio, or visual materials of any nature;

- (b) directly or indirectly using in commerce a reproduction, counterfeit, copy, or colorable imitation of the Southern Marsh Marks in connection with the sale, offering for sale, distribution, or importation of any goods and/or services;
- (c) directly or indirectly using any false designation of origin, false or misleading description of fact, or false or misleading representation of fact in connection with the sale of Southern Strut's products or services, including any representation that Southern Strut is affiliated with Southern Marsh;
- (d) passing off, inducing or enabling others to sell or pass off, as products or services produced by or for or distributed with authorization of Southern Marsh, any product or service that is not the product or service of Southern Marsh, is not produced under the control or supervision of Southern Marsh, is not approved by Southern Marsh, or is not distributed with Southern Marsh's express authorization;
- (e) selling, offering to sell, distributing, or importing products into the United States that incorporate, include, or display the Infringing Marks, or any other mark that is confusingly similar to the Southern Marsh Marks; and
- (f) otherwise engaging in competition unfairly.

66. Southern Marsh will suffer immediate and irreparable damage, injury and harm for which there is no adequate remedy at law if Southern Strut is not immediately and permanently enjoined from the conduct listed above.

67. Public policy favors the protection of intellectual property rights, and the prevention of unfair competition, and any injunctive relief granted herein will therefore be in accordance with public policy.

68. The potential damage to Southern Marsh if the injunctive relief requested herein is not granted far outweighs any harm that Southern Strut will suffer as a result of the injunctive relief requested. Immediate and permanent injunctive relief is therefore appropriate.

## **VII. JURY DEMAND**

69. Southern Marsh hereby demands a trial by jury of all claims so triable.

## **VIII. PRAYER**

WHEREFORE, Southern Marsh prays that the Court grant the following relief:

1. Order that Southern Strut and its officers, directors, agents, employees, successors, assigns and attorneys, and all persons and entities in active concert or participation with Southern Strut who receive notice of the injunction, be enjoined and restrained preliminarily during the pendency of this action, and then permanently, from doing, aiding, causing, or abetting any of the acts described in paragraph 65(a)-(f) of this First Amended Complaint.

2. Order Southern Strut to file with the Court and serve upon counsel for Southern Marsh within thirty (30) days after the entry of the injunction prayed for in this First Amended Complaint, a written report, sworn to under oath, setting forth in detail the manner and form in which Southern Strut has complied with the injunction;

3. Order Southern Strut to account for and pay to Southern Marsh all actual damages sustained by Southern Marsh by reason of Southern Strut's acts alleged in this First Amended Complaint;

4. Order Southern Strut to account for and pay to Southern Marsh three times the actual damages sustained by Southern Marsh by reason of Southern Strut's acts alleged in this First Amended Complaint pursuant to La. R.S. § 51:1409;

5. Order Southern Strut to account for and pay to Southern Marsh all profits derived by reason of Southern Strut's acts alleged in this First Amended Complaint and to disgorge such profits to Southern Marsh;

6. Find that this is an "exceptional" case pursuant to 15 U.S.C. § 1117;

7. Award Southern Marsh its costs of suit, including reasonable and necessary attorneys' fees and expenses pursuant to 15 U.S.C. § 1117 and La. R.S. § 51:1409;

8. Award Southern Marsh pre-judgment and post-judgment interest at the highest legal rate on all sums awarded in the Court's judgment; and

9. Award Southern Marsh such other and further relief to which it may be entitled at law or in equity.

Respectfully submitted,

HAYNES AND BOONE, LLP

/s/ Jason P. Bloom

Jason Bloom (admitted *pro hac vice*)

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**FIRST AMENDED COMPLAINT**



**ATTORNEYS FOR PLAINTIFF  
SOUTHERN MARSH COLLECTION,  
LLC**



# South Carolina Department of Insurance

Capitol Center  
1201 Main Street, Suite 1000  
Columbia, South Carolina 29201

HENRY McMASTER  
Governor

MICHAEL WISE  
Director

Mailing Address:  
P.O. Box 100105, Columbia, S.C. 29202-3105

February 24, 2025

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED  
ACCREDITED SURETY AND CASUALTY COMPANY, INC.  
4798 NEW BROAD STREET, SUITE 200  
ORLANDO, FL 32814

Dear Sir:

On February 24, 2025, I accepted service of the attached Summons and Complaint on your behalf. I am, hereby, forwarding that accepted process on to you pursuant to the provisions of S.C. Code Ann. § 38-5-70. By forwarding accepted process on to you, I am meeting a ministerial duty imposed upon me by S.C. Code Ann. § 15-9-270. I am not a party to this case. The State of South Carolina Department of Insurance is not a party to this case. It is important for you to realize that service was effected upon your insurer on my date of acceptance for service.

**You must promptly acknowledge in writing your receipt of this accepted process to [hsmith@doi.sc.gov](mailto:hsmith@doi.sc.gov). When replying, please refer to File Number 202483, *Fernando Pinillos, et al. v. Accredited Surety and Casualty Company, Inc., et al.*, 2025-CP-10-00919.**

By:

A handwritten signature in black ink, appearing to read "Anthony Ibarra".

Anthony Ibarra  
Associate General Counsel  
(803)737-6039

Sincerely Yours,

Michael Wise  
Director  
State of South Carolina  
Department of Insurance

Attachment

CC: Laura Locklair Esq.  
706 Orleans Ave., Ste. 101  
Charleston, SC 29407